

# TRANSCRIPT OF RECORD

## Supreme Court of the United States

OCTOBER TERM, 1942

No. 480

ROBERT MURDOCK, JR., PETITIONER.

COMMONWEALTH OF PENNSYLVANIA (CITY OF JEANNETTE)

No. 481

ANNA PERISICH, PETITIONER.

COMMONWEALTH OF PENNSYLVANIA (CITY OF JEANNETTE)

No. 482

WILLARD L. MOWDER, PETITIONER.

COMMONWEALTH OF PENNSYLVANIA (CITY OF JEANNETTE)

No. 483

CHARLES SEDERS, PETITIONER.

COMMONWEALTH OF PENNSYLVANIA (CITY OF JEANNETTE)

No. 484

ROBERT LAMBORN, PETITIONER.

COMMONWEALTH OF PENNSYLVANIA (CITY OF JEANNETTE)

No. 485

ANTHONY MALTEZOS, PETITIONER.

COMMONWEALTH OF PENNSYLVANIA (CITY OF JEANNETTE)

No. 486

ANASTASIA TZANES, PETITIONER.

COMMONWEALTH OF PENNSYLVANIA (CITY OF JEANNETTE)

No. 487

ELLAINE ZANES, PETITIONER.

COMMONWEALTH OF PENNSYLVANIA (CITY OF JEANNETTE)

ON WRITS OF CERTIORARI TO THE SUPERIOR COURT OF THE COMMONWEALTH OF  
PENNSYLVANIA

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**CERTIFIED RECORD**

[No. 192]

**IN THE COURT OF QUARTER SESSIONS AND  
OYER AND TERMINER  
OF WESTMORELAND COUNTY, PA.**

**COMMONWEALTH OF PENNSYLVANIA**

*vs.*

**Ellaine Tzanes and Anastasia Tzanes**

**No. 192 February Term, 1940**

**CHARGE** Petition for Appeal

**PROSECUTOR** City of Jeannette

**CORAM** O'Connell

**FILED** Mar. 1, 1940

**CERTIFIED FROM THE RECORD**

Petition for appeal filed.

May 1, 1940 This appeal, if how, and when allowed will  
be nunc pro tunc.

**BY THE COURT:**

**J. Hilary Keenan**

**Feb. 20, 1942 Appeal Refused.**

**J. G. GORDON, Jr. P. J.**

**Court of Com. Pleas.**

**No. 2, Philadelphia,**

**Specially presiding.**



And now, March 14, 1942, Writs of Certiorari received from Superior Court, as to Ellaine Tzanes and Anastasia Tzanes.

March 16, 1942, Exit records of proceedings, forwarded to the Superior Court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said Court at Greensburg, Pa., this 18th day of March, 1942.

JAY W. KROMER

Clerk of Courts.

**CERTIFIED RECORD**

[No. 193]

IN THE COURT OF QUARTER SESSIONS AND  
OYER AND TERMINER  
OF WESTMORELAND COUNTY, PA.

COMMONWEALTH OF PENNSYLVANIA

vs.

Anthony Maltezos, Anna Perisich,  
Robert Lamborn, Robert Murdock, Jr.,  
Charles Seders and Willard L. Mowder

No. 193 February Term, 1940

CHARGE Petition for Appeal

PROSECUTOR City of Jeannette

CORAM O'Connell

FILED Mar. 1, 1940

**CERTIFIED FROM THE RECORD**

Petition for appeal filed. And Now, Mar. 21, 1940, upon motion of Theodore A. Epstein, Esq., it is ordered and decreed that the order of this Court dated Mar. 1, 1940, in the

above matter is amended to read as follows: A ruling on the petition for the Appeal presented March 1, 1940, to be made upon disposition of the case of Charles H. Stewart, Jr., vs. Commonwealth of Pennsylvania, City of Jeannette, No. 722 October Term, 1939, Supreme Court of the United States, now pending, this proceeding meanwhile to remain in status quo; and such ruling of this Court on the within Petition for Appeal to be dated as of the time of such order.

KEENAN, J.

Feb. 20, 1942 Appeal Refused.

J. G. GORDON, Jr. P. J.  
Court of Com. Pleas.  
No. 2, Philadelphia,  
Specially presiding.

And now, March 12, 1942, Writs of Certiorari received from Superior Court, as to Anthony Meltezos, Robert Lamborn, Charles S. Seders, W. L. Mowder, Anna Perisich and Robert Murdock, Jr.

And now, March 16, 1942, Exit records of proceedings, forwarded to the Superior Court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said Court at Greensburg, Pa., this 18th day of March, 1942.

JAY W. KROMER  
Clerk of Courts.

**PETITION FOR APPEAL****No. 192 1940****IN THE COURT OF QUARTER SESSIONS  
OF WESTMORELAND COUNTY, PENNA.****COMMONWEALTH OF PENNSYLVANIA ex rel  
City of Jeannette***vs.***ELLAINE TZANES and ANASTASIA TZANES****To the Honorable, the Judges of said court:**

The Petition of the above named defendants, by their counsel Theodore A. Epstein, Esq., respectfully represents:

*First:* That on February 25, 1940, defendants were arrested without a warrant in the City of Jeannette, County of Westmoreland, Commonwealth of Pennsylvania, by police officers of said city on the charge of violating City Ordinance No. 60 of the City of Jeannette. A certified copy of said ordinance is hereto attached and marked Exhibit "A".

*Second:* That Section 1 of said ordinance provided a license requirement for "all persons canvassing for or soliciting within said borough, orders for goods . . . or merchandise of any kind, or persons delivering such articles under orders so obtained or solicited". Section 2 further provided for license requirements "for all persons huckstering, peddling, or selling . . . upon the streets", both as more fully set forth in the transcript from the docket of the City of Jeannette.

*Third:* That on February 26, 1940, defendants came before Mayor John O'Connell of said City of Jeannette, charged with violating said ordinance and were adjudged guilty and sentenced to pay a fine of Fifty (\$50.00) Dollars each plus costs, and in default thereof to be committed to jail for 30 days.

*Fourth:* That on February 26, 1940, when defendants appeared before Mayor O'Connell as set forth above, defendants first presented their "Motion to Continue" until the case of Stewart vs. City of Jeannette, now pending before the United States Supreme Court, has been decided. That motion being refused, defendants later moved to dismiss the case on the ground of the ordinance's invalidity under the First Amendment to the Constitution of the United States as well as Section 7 of the Constitution of Pennsylvania, in that it restricted freedom of speech, freedom of press, and freedom of worship of Almighty God; also in that the said ordinance violated the Fourteenth Amendment of the Constitution of the United States.

*Fifth:* That at said hearing, defendants set forth substantially the following facts before Mayor O'Connell, to-wit, that they were going from house to house exhibiting literature explaining the Bible and offering to play, on a portable phonograph, a short Bible lecture entitled "Snare and Racket", copy of which is attached hereto and marked Exhibit "B", and were so engaged when arrested; and they did not apply for a permit to do this work because they were thus engaged in preaching the gospel of Christ Jesus in obedience to the commandments of Almighty God, whose law is supreme, and to ask for a permit to do this work would be an insult to Almighty God, and result in their destruction.

*Sixth:* That at said hearing before Mayor O'Connell, defendants did further move to dismiss the case for insufficient evidence of guilt, tendering to Mayor O'Connell a printed copy of the case of Schneider vs. The State (Town of Irvington); hereinafter referred to, but said motion was nevertheless refused. This action on the part of the Mayor constituted a wanton disregard of the law, under both the above case and the decision of this Court in Com. vs. Klasik, No. 210 February 1939, decided January 9, 1940; copy of opinion therein attached hereto and marked Exhibit "C".

*Seventh:* That the finding of said Mayor O'Connell was

arbitrary and capricious in that the testimony produced before him neither proved nor tended to prove that defendants were guilty of a violation of said ordinance, and his said finding in convicting defendants was therefore an abuse of judicial discretion.

*Eighth:* That defendants aver that they were, at the time when arrested, engaged in the work of preaching the gospel of Christ Jesus, which work was done in obedience to the commandments of Almighty God as set forth in the Bible especially in Isaiah 43: 10-12, Isaiah 61: 1, 2, 1 Peter 2: 21, Matthew 24: 14, and Matthew 10: 7, 12-14, Acts 20: 20, and that they were in no way soliciting orders for goods or merchandise, nor were they acting as hucksters, peddlers, or salesmen of merchandise, nor were any other designation as set forth in said ordinance. Defendants further aver that the work they were then engaged upon was in no sense commercial or for self-gain, but was on the contrary entirely unselfish and in the spirit of bringing God's Word to others.

*Ninth:* That defendants were denied their right freely to worship Almighty God according to the dictates of their consciences, their right to freedom of speech, freedom of press, and freedom of assembly, all in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States.

*Tenth:* That defendants further aver that said City Ordinance No. 60 is unconstitutional under the decisions of the Supreme Court of the United States, to wit, *Lovell vs. City of Griffin*, 303 U. S. 444, and *Schneider vs. The State (Town of Irvington, N. J.)* 308 U. S. 147. The decision of the Mayor in Jeannette in the instant case is clearly in conflict with the *Schneider* case, *supra*, in that Mr. Justice Roberts, delivering the opinion of the Court, stated "To require a censorship through license which makes impossible the free and unhampered distribution of pamphlets strikes at the very heart of the constitutional guarantees". A copy of the United States Supreme Court in the *Schneider* case,

*Petition for Appeal (for No. 192)*

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supra, is hereto attached and marked Exhibit "D".

Wherefore defendants pray that an appeal be allowed so that justice may be done.

THEODORE A. EPSTEIN  
Attorney for Defendants

**AFFIDAVIT**

COMMONWEALTH OF PENNSYLVANIA }  
COUNTY OF WESTMORELAND } ss.

Before me, the undersigned authority, in and for the said County and State, personally appeared ANASTASIA TZANES, who, being duly sworn according to law, deposes and says that the averments contained in the foregoing Petition for Appeal are true and correct to the best of her knowledge and belief.

**ANASTASIA TZANES**

Sworn to and subscribed  
before me this 1 day  
of March, 1940.

W. E. NOEL



**ORDINANCE NO. 60**

["Exhibit A"]

AN ORDINANCE regulating the canvassing for or soliciting of orders for goods, paintings, pictures, wares or merchandise of any kind within the Borough of Jeannette, and the delivery of such articles under orders so obtained or solicited and requiring all person or persons so engaged in canvassing, soliciting or delivering, to first procure from the Burgess a license to transact said business and also regulating the hawking, vending of fruits and other merchandise upon the streets by public outcry or by solicitation and requiring all person or persons thus engaged to first obtain a license from the Burgess.

Be it ordained and enacted by the Borough of Jeannette in Council assembled and it is hereby ordained and enacted by the authority of the same.

SECTION 1. That all persons canvassing for or soliciting within said Borough, orders for goods, paintings, pictures, wares, or merchandise of any kind, or persons delivering such articles under orders so obtained or solicited, shall be required to procure from the Burgess a license to transact said business and shall pay to the Treasurer of said Borough therefore the following sums according to the time for which said license shall be granted.

For one day \$1.50 for one week seven dollars (\$7.00) for two weeks twelve dollars (\$12.00) for three weeks, twenty dollars (\$20.00) provided that the provisions of this ordinance shall not apply to persons selling by sample to manufacturers or licensed merchants or dealers doing business in said Borough of Jeannette.

SECTION 2. That all persons hawking, peddling or selling fruits goods or other merchandise upon the streets of said Borough by outcry or solicitation of the people upon the streets or thorough-fares of said Borough shall be required to procure from the Burgess a license to transact



said business and shall pay to the Treasurer of said Borough therefore the sum of ten dollars (\$10.00) per-day. Any person or persons failing to obtain a license as required by this ordinance shall upon conviction before the Burgess or Justice of the Peace of said Borough forfeit and pay a fine not exceeding one hundred dollars (\$100.00) nor less than the amount required for the license for such person or persons together with costs of suit, and in default of payment thereof, the defendant or defendants may be sentenced and committed to the Borough lock-up for a period not exceeding five (5) days or to the County Jail for a period not exceeding thirty (30) days.

Adopted by the Town Council of the Borough of Jeannette this 21st. day of March A.D. 1898.

Attest:

Geo. S. Kirk  
Secretary

D. E. Carle  
President of Council

I, J. Claire Manson, City Clerk, hereby certify that the above is a true and correct copy of Ordinance No. 60 of the City of Jeannette (formerly the Borough of Jeannette.)

J. Claire Manson (signed)  
City Clerk.

Exhibits B, C, and D referred to in foregoing Petition for Appeal are not printed here because they appear at other parts of the Record. R. 60a-62a, 108a, Index NOTE, p. i.

**MAYOR'S TRANSCRIPT**

° [No. 192 February Term 1940]

The transcript of the Mayor's Court in the above entitled cause, which accompanies the Petition for Appeal, is as follows:

**INFORMATION****COMMONWEALTH OF PENNSYLVANIA***vs.*

Elaine Tzanes

Anastasia Tzanes

**COMMONWEALTH OF PENNSYLVANIA****COUNTY OF WESTMORELAND**

ss.:

Before me, the subscriber, a Justice of the Peace, in and for the COUNTY of WESTMORELAND, personally came Othmer Seiler who, upon oath duly administered according to law, deposes and says that at Jeannette in the COUNTY of WESTMORELAND on or about the 25 day of February A.D. 1940, Defendant aforesaid did then and there unlawfully solicit sales of books and pamphlets, and did sell and deliver the same from door to door in the City of Jeannette, without a license, all of which is contrary to an Ordinance No. 60 Sec. 1 in such cases made and provided. Complainant therefor prays and desires that a warrant may issue, and that the Defendant may be arrested and held to answer this charge of unlawful solicitation and further deponent saith not.

**OTHMER SEILER**

Sworn to and subscribed before me,  
this 25th day of February, A.D. 1940.

**JOHN M. O'CONNELL**

Mayor [SEAL]

My Commission Expires Jan. 1, 1942.

**TRANSCRIPT OF DOCKET**

**COMMONWEALTH OF PENNSYLVANIA**

*vs.*

**Elaine Tzanes and Anastasia Tzanes**

*Charge:* Soliciting and selling merchandise without a license. Warrant issued to Othmer Seiler February 25th A.D. 1940 on oath of Othmer Seiler

And now February 25th A.D. 1940, Defendants arrested by virtue of above recited warrant, and bail required for a hearing on the 26th day of February 1940 at 7 o'clock P.M., in the sum of \$100.00.

And now February 26th 1940, at 7 o'clock P.M., the time fixed for a hearing, a hearing is had in above stated case, the Defendants appearing.

On the part of the Commonwealth, the following witnesses were produced, sworn and examined, viz:—(See Notes attached) whereupon, it appearing to me, the said Justice of the Peace, that a prima facie case has been made out, the said Defendant . . . held to the next Term of the Court of Quarter Sessions and Oyer and Terminer, and bail required for appearance thereat in the sum of \$ . . . . .

*Commonwealth of Pennsylvania,* }  
*County of Westmoreland* } ss.:

I hereby certify that the foregoing is a true and correct transcript from my Docket, and that the recognizances attached to the return in this case were duly taken and acknowledged before me.

**JOHN M. O'CONNELL**

Mayor [SEAL]

My Commission Expires Jan. 1st 1942.

After inspection and examination of the foregoing Transcript by Theodore A. Epstein, attorney for the defendants, and Charles R. Hessler, who, not an attorney, represented said defendants at the hearing, the transcript is amended by making the following additions:

The said Charles R. Hessler, before any testimony was taken, made a motion to continue said hearing until a petition to the Supreme Court of the United States for a writ of certiorari in the case of *City of Jeannette, Commonwealth v. Pennsylvania v. Charles H. Stewart, Jr.*, at No 722 October Term, 1939, was disposed of.

The Mayor, observing that he had requested the said Charles R. Hessler to keep his followers out of the City of Jeannette until said case was disposed of, and that he had refused to do so, denied the motion.

The said Charles R. Hessler, in calling Willard Mowder, Charles Seders, Robert Murdock, Jr. and Robert Lamborn, defendants in companion cases, and the witness, Earl B. Singer, stated that said persons were being called on behalf of the defendant, Elaine Tzanes, and the defendant, Anastasia Tzanes. The substance of the testimony of said persons is as follows:

The defendants, Willard Mowder and Charles Seders, testified that they were ordained Ministers, and that their method of preaching was to go about from door to door distributing tracts and pamphlets. They said they obtained the books from a supply house of the Watch Tower Bible & Tract Society by making a contribution of 25 cents for each of the books "Salvation" and "Creation", and that they parted with them by exacting a contribution in the same amount. They said that on occasions they had given some of the books without requiring a contribution where the person was too poor to pay. They said further if they were

unable to pay the supply house the contribution in cash at the time they obtained the books, they could be charged with them and could pay later.

The defendants, Robert Murdock, Jr. and Robert Lamborn, testified that they were ordained Ministers and preached the Gospel by going about from door to door distributing books, tracts and pamphlets, and that they received contributions so that more books and tracts could be published. Lamborn testified that he obtained the books from the Cadiz, Ohio Supply Company of Jehovah's Witnesses by making a contribution of twenty cents, and that he sold them or required a contribution of twenty-five cents before parting with them. Murdock testified that he obtained the books from the supply house at Ambridge, Pennsylvania, for a twenty cent contribution and received a twenty-five cent contribution from persons who took the books.

Earl B. Singer testified on behalf of the defendants that he, too, was an ordained Minister; that it was the practice of Jehovah's Witnesses to spread the faith by distributing books and tracts from door to door; that the Publishing house in Brooklyn, New York, of the Watch Tower Bible & Tract Society allotted territory in the various communities in which the various ministers were to give meat and drink to those who thirsted and hungered for the true word. For a true member of the faith to obtain a license to engage in this work, he said would result in the eternal damnation of this individual. On cross-examination, he testified that he had a trucking business in East Liverpool, Ohio, but that for the past fifteen months he had left the management of the business to others and was devoting his whole time to spreading the word of God. Being a full time devotee, he said he was allowed a special arrangement with the publishing house and obtained such books as "Creation" and "Salvation" by contributing five cents each and in disposing of them, he exacted a twenty-five cent contribution. He de-

nied that he personally profited in any way, but said he needed the four hundred per cent. difference between the contribution he made to obtain the books and the contribution he obtained in disposing of them to take care of expenses.

A phonograph record entitled "Snare and Racket", the testimony cars of the defendants, and books purchased by witnesses for the City of Jeannette, Commonwealth of Pennsylvania, were offered in evidence and made a part of the record.

March 28th, 1940, at the request of the defendants, the typewritten notes of testimony taken at the hearing February 26th, 1940 are made a part of the record, and consent is given to the filing of the same in connection with the transcript.

Othmer Seiler, who testified, in substance, that he is a Police Officer of the City of Jeannette; that on the 25th day of February, 1940, he was at his home at No. 50 Cuyler Avenue, Jeannette, when the two defendants came to his house, and after being admitted to the house asked him to purchase a book called "Creation," stating that the price was 25 cents. They also offered, for the sum of 25 cents, to sell him a Bible which they stated was worth in excess of Three Dollars. After further conversation, he purchased the book and paid the sum of 25 cents. The book was handed to him by the defendant, Anastasia Tzanes, and the money was given by him to the defendant, Elaine Tzanes. The defendants had other books in a case in their possession. The witness testified he then advised the defendants he was a police officer, and placed them under arrest. Upon arriving at the Police Station, he ascertained that the defendants did not have a license.

Neither of the defendants testified, but made a motion to dismiss the complaint on the ground that the evidence was not sufficient to sustain the charge, and that the ordinance of the City of Jeannette was invalid because it vio-



lated the Constitution of the State of Pennsylvania and the Constitution of the United States. The motion was denied.

At the conclusion of the hearing, the defendants were adjudged guilty and a fine of Fifty (\$50.00) Dollars each imposed, and in default of payment thereof, were sentenced to a period of thirty days in the County Jail of Westmoreland County. The defendants each gave bail in the sum of \$100 for his appearance in the event and appeal to the Quarter Sessions Court was refused.

[Filed Mar. 26, 1940, Wm. M. Berlin, Clerk]

["Defendants' Recognizance" and "Justification of Surety" following here omitted in printing]



**PETITION FOR APPEAL****No. 193 1940****IN THE COURT OF QUARTER SESSIONS  
OF WESTMORELAND COUNTY, PENNA.****COMMONWEALTH OF PENNSYLVANIA ex rel  
City of Jeannette***vs.***ANTHONY MALTEZOS  
ANNA PERISICH  
ROBERT LAMBORN  
ROBERT MURDOCK, JR.  
CHARLES SEDERS  
WILLARD L. MOWDER****To the Honorable, the Judges of said court:**

The Petition of the above named defendants, by their counsel Theodore A. Epstein, Esq., respectfully represents:

*First:* That on February 25, 1940, defendants were arrested without a warrant, in the City of Jeannette, County of Westmoreland, Commonwealth of Pennsylvania, by police officers of said city on the charge of violating City Ordinance No. 60 of the City of Jeannette. A certified copy of said ordinance is hereto attached and marked Exhibit "A".

*Second:* That Section 1 of said ordinance provided a license requirement for "all persons canvassing for or soliciting within said borough; orders for goods . . . or merchandise of any kind, or persons delivering such articles under orders so obtained or solicited". Section 2 further provided for license requirements "for all persons huckstering, peddling, or selling . . . upon the streets", both as more fully set forth in the transcript from the docket of the City of Jeannette.

*Third:* That on February 26, 1940, defendants came before Mayor John O'Connell of said City of Jeannette, charged with violating said ordinance and were adjudged guilty and sentenced to pay a fine of Fifty (\$50.00) Dollars each plus costs, and in default thereof to be committed to jail for 30 days.

*Fourth:* That on February 26, 1940, when defendants appeared before Mayor O'Connell as set forth above, defendants first presented their "Motion to Continue" until the case of Stewart vs. City of Jeannette now pending before the United States Supreme Court, has been decided. That motion being refused, defendants later moved to dismiss the case on the ground of the ordinance's invalidity under the First Amendment to the Constitution of the United States as well as Section 7 of the Constitution of Pennsylvania, in that it restricted freedom of speech, freedom of press, and freedom of worship of Almighty God; also in that the said ordinance violated the Fourteenth Amendment of the Constitution of the United States.

*Fifth:* That at said hearing, defendants set forth substantially the following facts before Mayor O'Connell, to wit, that they were going from house to house exhibiting literature explaining the Bible and offering to play, on a portable phonograph, a short Bible lecture entitled "Snare and Racket", copy of which is attached hereto and marked Exhibit "B", and were so engaged when arrested; and they did not apply for a permit to do this work because they were thus engaged in preaching the gospel of Christ Jesus in obedience to the commandments of Almighty God, whose law is supreme, and to ask for a permit to do this work would be an insult to Almighty God, and result in their destruction.

*Sixth:* That at said hearing before Mayor O'Connell, defendants did further move to dismiss the case for insufficient evidence of guilt, tendering to Mayor O'Connell a printed copy of the case of Schneider vs. The State (Town of Irvington), hereinafter referred to, but said motion was nevertheless refused. This action on the part of the Mayor

constituted a wanton disregard of the law, under both the above case and the decision of this Court in *Com. vs. Klasik*, No. 210 February 1939, decided January 9, 1940, copy of opinion therein attached hereto and marked Exhibit "C".

*Seventh:* That the finding of said Mayor O'Connell was arbitrary and capricious in that the testimony produced before him neither proved nor tended to prove that defendants were guilty of a violation of said ordinance, and his said finding in convicting defendants was therefore an abuse of judicial discretion.

*Eighth:* That defendants aver that they were, at the time when arrested, engaged in the work of preaching the gospel of Christ Jesus, which work was done in obedience to the commandments of Almighty God as set forth in the Bible especially in Isaiah 43: 10-12, Isaiah 61: 1, 2, 1 Peter 2: 21, Matthew 24: 14, and Matthew 10: 12-14, Acts 20: 20, and that they were in no way soliciting orders for goods or merchandise, nor were they acting as hucksters, peddlers, or salesmen of merchandise, nor were any other designation as set forth in said ordinance. Defendants further aver that the work they were then engaged upon was in no sense commercial or for self-gain, but was on the contrary entirely unselfish and in the spirit of bringing God's Word to others.

*Ninth:* That defendants were denied their right freely to worship Almighty God according to the dictates of their consciences, their right to freedom of speech, freedom of press, and freedom of assembly, all in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States.

*Tenth:* That defendants further aver that said City Ordinance No. 60 is unconstitutional under the decisions of the Supreme Court of the United States, to wit, *Lovell vs. City of Griffin*, 303 U. S. 444, and *Schneider vs. The State (Town of Irvington, N. J.)* 308 U. S. 147. The decision of the Mayor in *Jeannette* in the instant case is clearly in conflict with the *Schneider* case, *supra*, in that Mr. Justice

Roberts, delivering the opinion of the Court, stated "To require a censorship through license which makes impossible the free and unhampered distribution of pamphlets strikes at the very heart of the constitutional guarantees". A copy of the opinion of the United States Supreme Court in the Schneider case, supra, is hereto attached and marked Exhibit "D".

Wherefore defendants pray that an appeal be allowed so that justice may be done.

THEODORE A. EPSTEIN  
Attorney for Defendants

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF WESTMORELAND ) ss.:

Before me, the undersigned authority, in and for the said county and state, personally appeared CHARLES SEDERS, who, being duly sworn according to law, deposes and says that the averments contained in the foregoing Petition for Appeal are true and correct to the best of his knowledge and belief.

CHARLES SEDERS

Sworn to and subscribed before me this 1 day of March, 1940:  
W. E. NOEL Notary Public

This appeal, if, how and when allowed will be nunc pro tune.  
By order of Court KEENAN

Edward A. Compona, Clerk  
Bond to be continued

**ORDINANCE NO. 60**

["Exhibit A"]

AN ORDINANCE regulating the canvassing for or soliciting of orders for goods, paintings, pictures, wares or merchandise of any kind within the Borough Jeannette, and the delivery of such articles under orders so obtained or solicited and requiring all person or persons so engaged in canvassing, soliciting or delivering, to first procure from the Burgess a license to transact said business and also regulating the hawking, vending of fruits and other merchandise upon the streets by public outcry or by solicitation and requiring all person or persons thus engaged to first obtain a license from the Burgess.

Be it ordained and enacted by the Borough of Jeannette in Council assembled and it is hereby ordained and enacted by the authority of the same.

SECTION 1. That all persons canvassing for or soliciting within said Borough, orders for goods, paintings, pictures, wares, or merchandise of any kind, or persons delivering such articles under orders so obtained or solicited; shall be required to procure from the Burgess a license to transact said business and shall pay to the Treasurer of said Borough therefore the following sums according to the time for which said license shall be granted:

For one day \$1.50 for one week seven dollars (\$7.00) for two weeks twelve dollars (\$12.00) for three weeks, twenty dollars (\$20.00) provided that the provisions of this ordinance shall not apply to persons selling by sample to manufacturers or licensed merchants or dealers doing business in said Borough of Jeannette.

SECTION 2. That all persons huckstering, peddling or selling fruits goods or other merchandise upon the streets of said Borough by outcry or solicitation of the people upon the streets or thorough-fares of said Borough shall be required to procure from the Burgess a license to transact

said business and shall pay to the Treasurer of said Borough therefore the sum of ten dollars (\$10.00) per day. Any person or persons failing to obtain a license as required by this ordinance shall upon conviction before the Burgess or Justice of the Peace of said Borough forfeit and pay a fine not exceeding one hundred dollars (\$100.00) nor less than the amount required for the license for such person or persons together with costs of suit, and in default of payment thereof, the defendant or defendants may be sentenced and committed to the Borough lock-up for a period not exceeding five (5) days or to the County Jail for a period not exceeding thirty (30) days.

Adopted by the Town Council of the Borough of Jeannette this 21st. day of March A.D. 1898.

Attest:

Geo. S. Kirk  
Secretary

D. E. Carle  
President of Council

I, J. Claire Manson, City Clerk, hereby certify that the above is a true and correct copy of Ordinance No. 60 of the City of Jeannette (formerly the Borough of Jeannette.)

J. Claire Manson (signed)  
City Clerk.

Exhibits B, C, and D referred to in foregoing Petition for Appeal are not printed here because they appear at other parts of the Record. R. 60a-62a, 108a, Index NOTE, p. i.



**MAYOR'S TRANSCRIPT**

[No. 193 February Term 1940]

The transcript of the Mayor's Court in the above entitled cause, which accompanies the Petition for Appeal, is as follows:

**INFORMATION****COMMONWEALTH OF PENNSYLVANIA**

vs.

Annie Perisech, Anthony Maltezon,  
Willard Mowder, Charles Seders,  
Robert Lamborn, Robert Murdock, Jr.

**COMMONWEALTH OF PENNSYLVANIA** } ss.  
**COUNTY OF WESTMORELAND**

Before me, the subscriber, a Justice of the Peace, in and for the COUNTY of WESTMORELAND, personally came Francis Kramer who, upon oath duly administered according to law, deposes and says that at Jeannette in the County of Westmoreland on or about the 25 day of February A.D. 1940, Defendant aforesaid did then and there unlawfully solicit sales of books and pamphlets, and did sell and deliver the same from door to door in the City of Jeannette, without a license.

All of which is contrary to an Ordinance No. 60 Sec. 1 in such cases made and provided. Complainant therefor prays and desires that a warrant may issue, and that the Defendant may be arrested and held to answer this charge of Violating Soliciting Ordinance and further deponent saith not.

— FRANCIS KRAMER

Sworn to and subscribed before me, this 25th day of February, A.D. 1940. JOHN M. O'CONNELL, Mayor [SEAL]  
My Commission Expires Jan. 1, 1942.



**TRANSCRIPT OF DOCKET**

*Charge:* Soliciting and selling merchandise without a license. Warrant issued to Francis Kramer February 25th, A.D. 1940, on oath of

And now February 25th A.D. 1940, Defendant arrested by virtue of above recited warrant, and bail required for a hearing on the 26th day of February, 1940 at 7 o'clock P.M., in the sum of \$300.00.

See notes attached.

I hereby certify that the foregoing is a true and correct transcript from my Docket, and that the recognizances attached to the return in this case were duly taken and acknowledged before me.

JOHN M. O'CONNELL

Mayor [SEAL]

My Commission Expires Jan. 1st 1942.

After inspection of the foregoing Transcript by Theodore A. Epstein, Attorney for the defendants, and Charles R. Hessler, who, though not an Attorney, was present and permitted to represent the defendants at said hearing, the following additions to said transcript are made:

Before any testimony was taken, the said Charles R. Hessler made a motion to have said cases continued until the Supreme Court in the United States disposed of a petition for writ of certiorari in the case of City of Jeannette, Commonwealth of Pennsylvania, v. Charles H. Stewart, Jr., at No. 722 October Term, 1939.

The Mayor, noting that he had requested the defendants to remain out of Jeannette pending the disposition of said case, and that they had refused to do so, denied the motion.

The said Charles R. Hessler, at the time the defendants, Willard Mowder, Charles Seders, Robert Murdock, Jr. and Robert Lamborn, were called stated they were being called as witnesses on behalf of themselves and the other defend-

ants as well, and that the witness, Earl B. Singer, was called on behalf of all the defendants.

A phonograph record entitled "Snare and Racket", the testimony cards of the defendants, and the books purchased by witnesses for the City of Jeannette were offered in evidence and made a part of the record.

March 28th, 1940, at the request of the defendants, the typewritten notes of testimony taken at the hearing February 26th, 1940, are made a part of the record, and consent is given to the filing of the same in connection with the transcript.

Francis Kramer testified, in substance, that he is a Police Officer in the City of Jeannette; that he received a call and went to the home of Regis Detruf, and was advised that the defendants, Willard Mowder and Charles Seders, had sold a book there, and that he later arrested these two defendants as they were in the act of entering another house in the vicinity; that they had in their possession a quantity of books and tracts, and admitted to him they did not have a license to sell.

Regis Detruf said, in substance, that the two defendants had knocked on the door of his home; that they were told by his brother that he was not interested in any books, and that they closed the door and left; that he, Regis Detruf, went out of the house and saw them on the porch of the adjoining house and asked them what books they were selling and the price. One of the defendants advised him the price was 25 cents. He agreed to purchase the book "Salvation", and paid the defendants the sum of 25 cents; the defendants had a number of books and a victrola in their possession.

The Witness, Francis Kramer, testified that while on duty he received a complaint from Virginia Clair, and in response, went to Seventh Street, in the City of Jeannette; and accompanied by Herbert Baughman, found the defendants, Robert Murdock, Jr. and Robert Lamborn, on the porch of a home near the Clair residence; that the defendants, Lamborn and Murdock, admitted to him that they had no

license to solicit, and he placed them under arrest.

Herbert Baughman, Virginia Clair, Katherine Clair and Lillian Clair testified they were at the Clair home when the defendants, Murdock and Lamborn, came to the door and asked to be admitted, and played a record on the Victrola. After the record was played, the defendants solicited them to purchase books, and after some conversation, the witness, Virginia Clair, was told that the price was 25 cents. She paid the same and received the book "Salvation."

Francis Kramer further testified that he was at his home, off duty, late in the afternoon of February 25th, 1940, when the two defendants, Annie Perisech and Anthony Maltazon, knocked on the door of his home, and after being admitted, played a Victrola record, and solicited him to buy books. He inquired the price, and was told they were 25 cents each. He purchased the book "Salvation", and paid the sum of 25 cents. The defendants tried to persuade him to purchase a bible for the sum of 25 cents, claiming it was worth more than \$3.00. He then told the defendants he was a Police Officer, and placed them under arrest, and was informed by the defendants that they did not have a license.

The defendants, Willard Mowder and Charles Seders testified that they were ordained ministers, and that their method of preaching was to go about from door to door Distributing tracts and pamphlets. They said they obtained the books from a supply house of the Watch Tower Bible & Tract Society by making a contribution of 25 cents for each of the books "Salvation" and "Creation", and that they parted with them by exacting a contribution in the same amount. They said that on occasions they had given some of the books without requiring a contribution where the person was too poor to pay. They said further if they were unable to pay the supply house the contribution in cash at the time they obtained the books, they could be charged with them and could pay later.

The defendants, Robert Murdock, Jr. and Robert Lamborn testified that they were ordained Ministers and

preached the Gospel by going about from door to door distributing books, tracts and pamphlets, and that they received contributions so that more books and tracts could be published. Lamborn testified that he obtained the books from the Cadiz, Ohio Supply Company of Jehovah's Witnesses by making a contribution of twenty cents, and that he sold them or required a contribution of twenty-five cents before parting with them. Murdock testified that he obtained the books from the supply house at Ambridge, Pennsylvania, for a twenty cent contribution and received a twenty-five cent contribution from persons who took the books.

Earl B. Singer testified on behalf of all the defendants that he, too, was an ordained Minister; that it was the practice of Jehovah's witnesses to spread the faith by distributing books and tracts from door to door; that the Publishing House in Brooklyn, New York, of the Watch Tower Bible & Tract Society allotted territory in the various communities in which the various ministers were to give meat and drink to those who thirsted and hungered for true word. For a true member of the faith to obtain a license to engage in this work, he said would result in the eternal damnation of this individual. On cross-examination, he testified that he had a trucking business in East Liverpool, Ohio, but that for the past fifteen months he had left the management of the business to others and was devoting his whole time to spreading the word of God. Being a full time devotee, he said he was allowed a special arrangement with the publishing house and obtained such books as "Creation" and "Salvation" by contributing five cents each and in disposing of them, he exacted a twenty-five cent contribution. He denied that he personally profited in any way, but said he needed the four hundred per cent difference between the contribution he made to obtain the books and the contribution he obtained in disposing of them to take care of expenses.

None of the defendants who testified denied that the transactions had taken place as detailed by the witnesses

called on behalf of the Commonwealth except Charles Lamborn said that he had told Virginia Clair about the time she was paying the money that the money was to be used so that other books could be distributed.

The defendants, Annie Peresich and Anthony Maltezon did not testify.

At the conclusion of the testimony, a motion was made to dismiss the defendants on the grounds that the testimony was insufficient to support a conviction, and on the further ground that Ordinance No. 60 of the City of Jeannette violated the Constitutions of Pennsylvania and of the United States. The motion was denied.

At the conclusion of the hearing, the defendants were adjudged guilty, and a fine of \$50.00 each was imposed, and in default of payment thereof were sentenced to a period of thirty days in the County Jail of Westmoreland County. The defendants each gave bail in the sum of \$100 for his appearance in the event an appeal to the Quarter Sessions Court was refused.

["Defendants' Recognizance" and "Justification of Surety" following here omitted in printing]

**TRANSCRIPT OF EVIDENCE**

The transcript of the evidence referred to by the Mayor in the foregoing "Mayor's Transcripts" (2) attached to the two Petitions for Appeal and made, respectively, a part of the Mayor's Transcript and the Petition for Appeal, is as follows:

**IN THE MAYOR'S COURT OF  
THE CITY OF JEANNETTE,  
~~COUNTY OF WESTMORELAND~~  
STATE OF PENNSYLVANIA**

**CITY OF JEANNETTE, Complainant,**

*vs.*

**ANTHONY MALTEZOS, ANNA PERISICH,  
ROBERT LAMBORN, ROBERT MURDOCK, JR.,  
CHARLES SEDERS and WILLARD L. MOWDER,  
Defendants.**

**CITY OF JEANNETTE, Complainant,**

*vs.*

**ELLAINE TZANES and ANASTASIA TZANES,  
Defendants.**

**HEARING held Monday, February 26th, 1940, at 7:00 P.M.,  
in the Municipal Building, Jeannette, Pennsylvania.  
CORAM: Hon. John M. O'Connell, Mayor of the City of  
Jeannette, Pennsylvania.**

**APPEARANCES**

**For the Commonwealth:**

**Fred B. Trescher, Esq.,  
City Solicitor**

**For the Defendants:**

**Mr. Charles R. Hessler**



**TRANSCRIPT  
OF STENOGRAPHIC NOTES OF TESTIMONY**

Reported by: James Shaughnessy,  
Official Reporter,  
County Court,  
Pittsburgh, Penna.

**THE COURT:** All right. I will call the case of Commonwealth vs. Anthony Maltezos, Anna Perisich, Robert Lamborn, Robert Murdock, Jr., Charles Seders, Willard L. Mowder, Ellaine Tzanes and Anastasia Tzanes, charged with unlawfully soliciting sales of books and pamphlets and selling the same from door to-door in the City of Jeannette without a license. How do you plead?

**MR. HESSLER:** Not guilty.

**THE COURT:** Do you all plead not guilty?

**MR. HESSLER:** Not guilty. Are you going to try all six at once?

**THE COURT:** Yes; we will try them all together. It is all the same.

**COMMONWEALTH'S CASE**

**FRANCIS KRAMER**, a witness called and produced on behalf of the Commonwealth, having first been duly sworn, testified as follows:

**DIRECT EXAMINATION**

**Mr. Trescher:**

**Q** What is your full name, please?

**A** Francis Kramer.

**Q** And your occupation, Mr. Kramer?

**A** Night lieutenant of police, Jeannette.

**Q** Were you on duty on February 25th?

**A** Yes, I was.



Q Did you have some complaint with reference to Charles Seders?

A Yes, I did.

Q Will you state what that was and what you did pursuant to that complaint?

A Well, I had a call from Detruf over here (indicating) about these parties up here selling books, and he asked me what I was going to do about it. I asked him, I says, "Did you buy a book from them?" He said yes. I says "Can you point the fellows out to me?" He said yes. I said, "We will be up right away." So I went up to his house and he was standing on the front porch—

Q Who was standing on the front porch?

A Detruf here, and he says, "The fellow is up around the corner," I says, "You come along with me and point him out." So we went up to the corner in my car, and he says, "Right over there they are." So—

Q Whom did he point out?

A He pointed out this here Charles Seders and Willard Mowder.

Q Can you identify those two persons now?

A Yes, I think that is this party here and this party here (indicating Charles Seders and Willard Mowder).

Q Did you have any conversation with these two men?

A Well, the only thing is, the conversation we had is they said they didn't do anything.

Q Did they have any books or pamphlets with them?

A Yes, they had a satchel and one of these victrolas.

Q Did they have anything else, any pamphlets or books of any kind?

A Well, they had them in a suitcase. I didn't go into their suitcase.

Q You didn't examine the suitcase?

A No.

Q Did you ask them whether they had been selling—

A Yes, I asked them if they were selling. They claimed they weren't selling, they were giving the books away.

Q Did you ask them whether they had a license?

A Yes, I did.

Q What did they say about that?

A They said they didn't have no permit or anything.

Q They didn't?

A No.

### CROSS EXAMINATION

Mr. Hessler:

Q Officer Kramer, did you see Mr. Seders sell any books?

A No.

Q Did you see Mr. Mowder sell any books?

A No.

REGIS DETRUF, a witness called and produced on behalf of the Commonwealth, having first been duly sworn, testified as follows:

### DIRECT EXAMINATION

Mr. Trescher:

Q What is your full name?

A Regis Detruf.

Q Where do you live, Mr. Detruf?

A 718 St. Clair Street.

Q Were you home on the 25th of February?

A Yes, sir.

Q Did you see the defendants, Charles Seders and Willard Mowder there?

A Yes, sir.

Q What time of the day did they come to your place?

A I really couldn't say.

Q Was it in the morning or afternoon?

A It was in the afternoon.

Q Can you identify Mr. Seders and Mr. Mowder now?

A Yes, sir.

Q Are they the two persons that Mr. Kramer pointed out?

A Yes, sir.

Q Did they come to your home?

A Yes, sir.

Q What did they want?

A Well, they said they were,—they came to the door and my brother answered the door and said we weren't interested. They left and I went out on the porch and I hollered to that fellow right there (indicating Charles Seders), and I said, "How much are your books?" and he said 25c. I said, "May I see one?" He said, "Yes, sir." So he came over and showed me one and I looked at it and I said, "I will take one."

Q You said "that fellow right there". Whom do you mean?

A I didn't know his name. This fellow sitting right here (indicating).

Q Is that Charles Seders?

CHARLES SEDERS: Right.

Q Where was Willard Mowder at that time?

A Him and this Mr. Seders was over on the next porch.

Q To whom did you pay the money?

A To Mr. Seders.

Q And who gave you the book?

A Mr. Seders.

Q Where did they have this book?

A They had it in a wooden case or satchel.

Q Could you see inside that satchel?

A No, sir.

Q Why do you say they had it in the satchel?

A Well, he was carrying it.

Q Who do you mean by "he"?

A I don't know his name.

Q Mr. Willard Mowder?

A Yes, sir.

Q That is the man to whom you are pointing?

A Yes, sir.

Q Was the satchel opened in your presence?

A Yes, sir.

Q Were there other books in there?

A There was some, yes, sir.

Q What was the name of the books that you bought?

A Salvation.

(Witness hands a book and a pamphlet to Mr. Trescher)

Q This book with the red binding called Salvation is the book—

A That's the book.

Q —that these defendants sold to you and for which you paid a quarter?

A Yes, sir.

Q Did you buy any other books from them?

A No, sir.

MR. TRESCHER: I will offer in evidence at this time the book Salvation.

The Court:

Q There is one thing I want to ask you. When these men were on your porch you say your brother answered the door. Were the two of them on the porch together?

A I couldn't swear to that. I wasn't at the door.

### CROSS EXAMINATION

Mr. Hessler:

Q Where were you, Mr. Detruf, when Mr. Seders and Mr. Mowder came to your home?

A I was in the front room.

Q You stated that your brother wasn't interested or told them that he wasn't interested?

A He said he wasn't interested.

Q Were you interested in what they had?

A Well, I was curious.

Q You were curious?

A That's right.

Q Where were they when you first saw them?

A They were next door.

Q They were next door?

A Next door.

Q How did you come to get in conversation with them?

A I went out on the porch and I told Mr. Seders—

Q What did he say?

A I said, "How much are your books?" And he says, "Twenty-five cents". Then I says, "May I look at them? And he said yes, and him and Mr. Mowder came over and they stood on the steps and he opened the suitcase that Mr. Mowder give him and took the book out and I looked at it and I said, "I will take them."

Q What prompted you to take it? Are you interested in the subject?

A No.

Q Are you interested in the subject "Salvation"?

A No.

Q You are not interested?

A No.

Q Did you look through the book?

A Yes.

Q Did you read where it says, "Diselosing God's provision for man's protection from disaster and salvation to life everlasting in complete happiness?"

Mr. Hessler:

Q What was your reason for buying them?

A Just curiousness.

Q After you got the books then what did you do?

A I went in and glanced through them and sat down and ate supper.

Q Then what did you do?

A I got up and went upstairs and fell asleep.

Q Did you call the police?

A Yes, sir.

Q You did?

A Yes, sir,—I did not; my mother called.

Q Did you tell your mother to call them?

A No, I didn't.

Q Why did she call them?

A I couldn't answer that.

Q Then what did you do? Did you go out with the police and point out where—

A Yes, sir.

Q You did that before you ate supper?

A Yes, sir.

Q Before you ate supper?

A Yes.

Q As soon as the police arrived you went out with them to look at these—

A I waited for them on the porch until they come up.

Q Why did you do that?

A After mother called I had to wait until they came up.

Q You bought the books, secured the books, rather, at your own request? Then why did you, why were you interested in having these men arrested?

A It wasn't my idea.

Q Whose idea was it?

A Mother's.

Q It was your mother's idea?

A Yes.

Q And you bought the books—was it your mother's idea that you go out and buy the books?

A No, it wasn't.

Q Whose idea was that?

A That was mine.

Q Did you hear any conversation at the door between the men and your brother?

A No, sir.

Q What was the exact conversation between you and Mr. Seders?

A Only what I told you, about me calling them over.

Q And just what did he say?

A I couldn't remember.

Q You don't remember what he said?

A That's right.



Q And yet you had sufficient interest in the books to give him a quarter for them?

A Yes, sir.

Q Have you read the books since you got them?

A I haven't had time.

Q You haven't had time?

A No, sir.

FRANCIS KRAMER, a witness for the Commonwealth, recalled, having previously been duly sworn, testified as follows:

DIRECT EXAMINATION

Mr. Trescher:

Q Did the defendant, Charles Seders, give you his home address?

A Yes, he did.

Q What is that address?

A 3181 Weir Avenue, Weirton, West Virginia.

Q Did the defendant, Willard Mowder, give you his address?

A Yes, he did.

Q What is that address?

A It is Virginville, West Virginia. He gave me his age too; Willard is 18 and Charles is 27.

Q Did you receive any complaint with reference to Robert Lamborn?

A Yes, I had a call, a complaint on it.

Q What did you do with reference to that complaint?

A Well, I found out that they bought a book from him.

Q What was your complaint and what did you do?

A About two parties being up there and annoying the neighbors—

Q Up where?

A Up on North Seventh Street. I asked them what the trouble was. They said there was a Jehovah Witness up here going from door to door, and I asked them if they were selling anything. They said they was. They said they bought a book from them.

Q. Who were you talking to?

A. I was talking to Clair up there on Seventh Street.

Q. All right, what did you do?

A. I went up with the police car, me and Mr. Cowan—

Q. He is an officer?

A. Yes, sir.

Q. Then what did you do?

A. I went up there and had this Jasper (indicating) over here point the fellows out to me, because he was up when they bought the books up at Clair's place.

Q. Where was the defendant, Robert Lamborn, when you arrived there? Where did you first see him?

A. Well, I passed him up and they said they were down the street there and the fellows is down there close by, for me to go down and they would identify them.

Q. Did you go down?

A. Yes, sir.

Q. Where did you see Robert Lamborn?

A. They were at the house on the corner there and Seventh Street.

Q. When you say "They" who do you mean?

A. That would be two parties, Robert—

Q. Robert Murdock, Jr. and Robert Lamborn?

A. Yes, sir.

Q. Are they here now?

A. Yes, they are.

Q. Can you point them out?

A. I don't know their name for name, but these are the two fellows (indicating).

MR. TRESCHER: Which is Robert Lamborn?

MR. LAMBORN: I am.

Q. And the other is Robert Murdock, Jr.?

A. That is the names they give.

Q. Where were they? Were they out on the street or at the house?

A. They was at the house.

Q Were they on the porch or at the door or where?

A They was up at the door talking to a party there.

Q What did you do?

A Mr. Cowan he got out of the car and placed them under arrest.

Q Did you have any conversation with them?

A Yes; just about the same as the other ones.

Q Did they have any equipment of any kind with them?

A Yes, they had the victrola and that bag that the books were in.

Q Did you know there were books in the bag?

A In that case, yes; we looked in them in that case.

Q About how many books were in that bag?

A I couldn't judge. I would say between ten and fifteen, around that.

Q And who had the bag?

A I just couldn't say which one had the bag. One had the victrola and one had the bag.

Q Did you ask Lamborn and Murdock whether they had a license to sell?

A Yes, I did.

Q Did you ask them whether they had been selling?

A I asked them if they had been selling. There was no answer to that if they were selling or if they weren't selling.

Q What answer did they give when you asked them whether they had a license?

A They were arguing that they were arrested for nothing.

Q Did Robert Lamborn give you his address?

A Yes. Both of them gave me their address off their card, what they was carrying. That is the address (indicating):

Q Robert Lamborn's address is shown to be Cadiz, R. D. No. 2, Ohio?

A That's right.

Q And Robert Murdock, Jr., the address is shown to be Route 2, Box 143, Aliquippa?

A Yes, sir.

Q Pennsylvania I suppose?

A That's right.

Q Did you ask either of these men when they had come to Jeannette?

A No, I didn't.

### CROSS EXAMINATION

Mr. Hessler:

Q Did you see Mr. Lamborn leave any literature?

A No,—at the door where he got him?

Q Yes.

A No.

Q Did you see Mr. Murdock leave any literature?

A No; I didn't go up to that door.

Q You said something about him showing a card. Have you got the card?

A No, I give them back to him.

Q Is that the card (handing card to witness)?

A That's right.

Q That's right?

A Yes, sir.

THE COURT: Let me see that.

(Mr. Hessler hands the card to the Court)

The Court:

Q Are you sure that is the card?

A No, I am not sure, It was a card like that. It had his name and everything on.

Mr. Hessler:

Q Take another look at it. Read it. Did he read it to you?

A No.

Q He just showed it to you?

A He just showed me the card and his name was on it.

Q And you are almost certain that this is the card?

A I won't say certain.

Q It looks like—

A But it is a card something like that.

MR. HESSLER: That is all.

HERBERT BAUGHMAN, a witness called and produced on behalf of the Commonwealth, having first been duly sworn, testified as follows:

#### DIRECT EXAMINATION

Mr. Trescher:

Q Where do you live, Mr. Bowman?

A Greensburg, R. D.-3, Box 207.

Q Were you in Jeannette on February 25th?

A I was.

Q Where were you?

A 410 North Seventh Street.

Q Whose home is that?

A A girl friend's, Clair's.

Q Did you see the defendants Lamborn and Murdock there during the afternoon?

A I will tell you, when I came up there the other girl friend's boy friend was in the car with me and I came up with the car and just at that time they were entering the house and we went in the house and they had a victrola setting on a footstool there and it was playing a record. Those two fellows there, whatever their names is, they were setting on the couch—

Q You mean Mr. Lamborn and Mr. Murdock, the two defendants?

A Yes. They were sitting on the couch and that record was playing. It was playing something about downing the Gospel or something like that. I didn't pay no attention to it, because I wasn't interested in it; and as far as leaving the house, I had nothing to do with the house, but I can witness

that I saw them have the pamphlets in the case and saw them give it to my girl friend here and she gave them a quarter for it.

Q. Did they say anything about the price of the pamphlet?

A. They did. They said usually what they got for them was 25c. They set their own price. It wasn't no donation or anything. That is what they said, the price of them were a quarter.

Q. Who was it that paid the quarter?

A. Virginia Clair paid the quarter.

Q. Do you know what kind of a book she got?

A. The same thing as that (indicating).

Q. It was a book similar to the exhibit which is called Salvation and has already been offered in evidence—

A. That's right.

Q. —in this case?

A. That's right.

Q. Was that the only thing that was turned over?

A. That is the only thing. A small pamphlet like that (indicating). She has it there.

Q. You mean there was a pamphlet called Government and Peace which accompanied the book Salvation?

A. That's right.

Q. Where did they have these books?

A. They had them in a small suitcase and,—what is your name?

MR. MURDOCK: Murdock,

A. (continuing) He is the one that was carrying the case and the other fellow was taking care of the victrola.

Q. And when they left did they leave together?

A. They did.

Q. Did you see where they went from there?

A. I did. I followed them in my car.



Q Where did they go?

A Where Mr. Kramer picked them up.

Q Did they go direct from Clair's home—

A That's right.

Q —to the house at the corner?

A That's right.

MR. TRESCHER: That is all.

### CROSS EXAMINATION

Mr. Hessler:

Q What is your name?

A Herbert Baughman.

Q Where do you live, Herbert?

A Greensburg, R. D. 3, Box 207.

Q Did you buy any of the books from,—get any of the books from Mister—

A I did not.

Q —from Mr. Murdock?

A No, I did not.

Q But you stated that you heard a record played?

A I did.

Q Can you call just any of the statements on that record?

A Well, I can't recall any statements on the record because I didn't pay that much attention to it, because I wasn't interested in it whatsoever.

Q You said something about a statement that it was downing religion. What did you just mean by that?

A Well, what is what you were selling?

Q Well, I am asking you. You made a statement that the record stated that it was downing religion. What do you mean by that?

A Do you have the record here?

Q Yes.

A Play it and—

Q Would you like to play it?

A No, I wouldn't like to play it. I am not interested.

Q You made a statement it was downing religion. Can you clarify that? Can you clarify that statement by some—

A Well, some of the wording that is in that book and I take from the record some of that same wording in there, downing the priests of the Catholic Church and whatsoever.

Q It says what?

A That they were downing the priests.

Q Just find out where in the book it says downing the priests. (handing book to witness).

THE WITNESS: I did for the simple reason that the police called me and advised me to do it because they was doing something unlawful. That is what they told me.

Mr. Hessler:

Q All right, we would like to have you find in the book—

A That doesn't have no connection with this whatever.

Q Maybe you would like to retract that statement?

A I wouldn't like to retract it.

(One of the Clair girls present in the courtroom attempts to point out a passage in the book *Salvation* to the witness)

Mr. Hessler:

Q One or two more questions. You stated the police called you. How did the police know the gentlemen were at your place?

A The police didn't call. A friend that had already gotten some of them called and said if they come, in order to assist the police to arrest them that we should buy a book, that that is the only way they could pick them up, by buying a book from them. That is just what I done. I am just a witness. I wasn't at the house when it happened.

Q You weren't at the house when it happened?

A I wasn't there when the 'phone call came in whatsoever. I am just testifying that I seen them sell the book and whatsoever.

Q Who was it that called? The priest called—

THE COURT: He said he didn't know.

A I wasn't even there when the 'phone call came.  
Mr. Hessler:

Q You said something about,—what was your purpose in following these gentlemen in your car?

A For the simple reason they were coming up there. I was just assisting the officer. He said they would be right up, and I was following those two gentlemen over there down the street in order not to lose track of them.

Q You wanted to be sure that they arrested them?

A That's right, because they was doing something unlawful, absolutely.

MR. HESSLER: That is all.

VIRGINIA CLAIR, a witness called and produced on behalf of the Commonwealth, having first been duly sworn, testified as follows:

#### DIRECT EXAMINATION

Mr. Trescher:

Q Where do you live, Miss Clair?

A 410 North Seventh Street.

Q Were you home on February 25th?

A Yes, I was.

Q Did you see these two defendants—

A Yes.

Q —at your home?

A Yes.

Q What time did they come there?

A Just around 5:30 I suppose. The later part of the afternoon anyway.

Q Will you tell what they did after they came there?

A They came in, it was cold, they started to play this record. My sister said it would be too cold to stand there with the door open. They said they could come in. They came in and sat the victrola down on the stool and played this victrola record on the victrola. We were all standing around waiting because we were in a hurry to go out, we wanted to eat our supper and go out, and when they were finished playing they said would we buy this book, take one of these books—

Q Which book do you mean?

A The red book (indicating).

Q That is the book called Salvation?

A Yes, sir.

Q Did you bring that book with you this evening?

A Yes.

Q All right, what did you say when they asked you whether you wanted to buy that book?

A My sister didn't know whether she would want one. We were both sitting there,—I was standing, she was sitting there. She said she didn't know whether she would want one, and I thought I would want one because I was curious about the book, I had heard about the teachings and I wanted to see what they printed. So I called and I said, "How much are they?" And he said a quarter, and I got the money out of my pocketbook and paid for it.

Q Who gave you the book?

A This man straight across there (indicating Robert Murdock, Jr.).

Q He gave you the book?

A Yes, sir.

Q And to whom did you give the money?

A To him, as he gave me the book.

Q When they came in were they together?

A Yes.

Q Who had the victrolas?

A The other gentleman over there (indicating Robert Lamborn).

Q That is Lamborn?

A Yes.

Q Did you receive any other pamphlets or books at the same time?

A Yes; these two others were with it. He handed them in with it.

Q The two other pamphlets were with the book?

A Yes.

Q Did you pay anything for these other pamphlets?

A Well, he handed them to me all together.

Q Did he have any other books?

A Well, I didn't see any at the time. I just walked in the room and took these from him.

Q Where did he get that book?

A Well, he had it in his hand already, because he asked my sister. I didn't notice where he had got it from, because I was standing in the hallway listening.

Q And your sister was there at the time?

A She left them in the house.

MR. TRESCHER: You may cross examine.

### CROSS EXAMINATION

Mr. Hessler:

Q Your name is Virginia Clair?

A Yes.

Q C-l-a-i-r?

A Yes.

Q Where do you live, Miss Clair?

A 510 North Seventh Street.

Q North Seventh?

A Yes.

Q Did you listen to the record all the way through?

A No, not all the way through.

Q Did you hear most of it?

A I heard some of it and it made me mad. I didn't want to hear the rest of it.

Q You didn't hear all of it?

A No.

Q Did you stay in the room while it was playing?

A I was in the hallway but I was within hearing distance.

Q You could hear the record from the time it started until it finished?

A Yes.

Q Just what was in the record that made you—

Mr. Hessler:

Q Now you say you were curious to get a book to investigate what their teachings were, is that right?

A Yes.

Q Have you read the book since you got it?

A I just read part of it. I didn't have time. I just picked out this part of it.

Q Did you enjoy it?

A No.

Mr. Hessler:

Q After securing the books then someone in your home called the police?

A Yes.

Q Did you inquire,—or did you ask them to come up and make the arrest?

A Yes, I did.

MR. HESSLER: That is all.

KATHERINE CLAIR, a witness called and produced on behalf of the Commonwealth, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

Mr. Trescher:

Q Are you a sister of Virginia Clair?

A Yes, I am.



Q Did you see these two defendants, Murdock and Lamborn, at your home—

A Yes, I did.

Q —on February 25th?

A Yes, I did.

Q Just tell what occurred. Did you admit them to the house?

A No, I didn't. I was in the other room. I just saw them there. I didn't buy the book from them. It was my other sister that left them in (indicating Lillian Clair).

Q Were you present when anyone did buy a book from them?

A No. I was in the other room.

Q But you saw them at the house?

A I saw them there, before they sold them the books though.

LILLIAN CLAIR, a witness called and produced on behalf of the Commonwealth, having first been duly sworn, testified as follows:

#### DIRECT EXAMINATION

Mr. Trescher:

Q Your name is what?

A Lillian Clair.

Q You live where?

A Same address, 410 North Seventh Street.

Q Did you admit these two defendants to the house?

A Yes, sir.

Q Did they come there and knock at the door or what?

A They knocked at the door and I opened the door and they started playing that victrola, and it looked like a pretty big record to me. Well, I didn't know what it was all about, so I told them it would take too long, it would get too cold. So they stepped inside the door, made themselves right at home, put the record on the stool and sat down and played all through the record. I didn't even bother listening to it.

because I was making our evening meal and it was out there burning and I had to run out and do that instead of listening to that old record, and when I got back in there it was about finished. I couldn't tell you what it was all about anyway. So when they got up to leave Mr. Murdock opened the case and brought that red book out and that other book and those pamphlets, Kingdom whatever it is. He took that out of his overcoat; he had that in his pocket in his overcoat.

Q Did he have other books in this case?

A Yes.

Q When you say the red book what do you refer to?

A Salvation.

Q The book called Salvation?

A Yes, sir.

Q What did he want to do with that book?

A He asked me if I wanted a book. I didn't want anything we had to pay for, I didn't want to pay anything. My sister over there (indicating Virginia Clair) said she wanted to buy one, because she had heard about them and she was curious to know just what they printed, so she bought one.

Q Did she pay for it?

A Yes, she did.

Q Do you know how much she paid?

A Yes. She asked Mr. Murdock how much and he said

25c.

Q Where was Lamborn at that time?

A Right beside him.

Q And when they left who had the victrola?

A Mr. Lamborn I guess.

Q And who had the case of books?

A Mr. Murdock carried that.

Q When you say it was a case of books what do you mean by that?

A It was a suitcase; it was a little suitcase. He had the lid opened and books piled in it.

Q Do you know how many books were in there?

A I couldn't say.

Q Was there more than a dozen or more than twenty or how many approximately?

A Well, I judge there would be about a dozen in there. It wasn't a very big suitcase. It had all the red books and those other pamphlets in there.

### CROSS EXAMINATION

Mr. Hessler:

Q What is your full name?

A Lillian Clair.

Q Miss Clair, when your sister asked Mr. Murdock the price of the books didn't he say something about a 25c contribution?

A He said 25c.

Q You didn't hear him say anything about a contribution?

A No, I didn't pay that much attention to him.

Q He may have said it and you wouldn't be certain?

A I couldn't swear to it.

VIRGINIA CLAIR, a witness for the Commonwealth, recalled, having previously been duly sworn, testified as follows:

### CROSS EXAMINATION

Mr. Hessler:

Q Do you recall Mr. Murdock saying something about a contribution?

A No. It was like this: I said, "How much?" And the one gentleman, Mr. Murdock, said 25c. He answered my question. The other gentleman said, "The 25c is to print more books." That is the way it was, but he answered my question to the price as 25c.

Q But the other gentleman, Mr. Lamborn, corrected him and said that the 25c was—

A Well, to the man that had the book in his hand that was selling me the book, I asked him and he said 25c, and the other man wasn't selling the books.

Q But he clarified it and stated—

A He wasn't selling the books.

Q But you heard him distinctly say that the 25c was for printing more books?

A Yes.

REGIS DETRUF, a witness for the Commonwealth, recalled, having previously been duly sworn, testified as follows:

### CROSS EXAMINATION

Mr. Hessler:

Q I would like to ask you, Mr. Detruf, if Mr. Seders didn't say to you that the book was left on a 25c contribution?

A I didn't understand him to say that, no, sir.

KATHERINE CLAIR, a witness for the Commonwealth, recalled, having previously been duly sworn, testified as follows:

### DIRECT EXAMINATION

The Court:

Q Did either of these fellows ask you to buy any literature?

A No, because I didn't go in the room at all.

FRANCIS KRAMER, a witness for the Commonwealth, recalled, having previously been duly sworn, testified as follows:

### DIRECT EXAMINATION

Mr. Trescher:

Q Mr. Kramer, do you know or have you seen prior to today defendants, Anna Perisich and Anthony Maltezos?

A Yes, sir, I saw both of them.

Q Where did you see them?

A Well, I was at my home—

Q Where is your home?

A No. 19 Thirteenth Street, West Jeannette, around 4:40 or 4:45. A rap come to the door—

Q Were you in uniform at the time?

A No, I wasn't.

Q Were you dressed in civilian clothes?

A Yes, I was.

Q Did the defendants know you were an officer?

A I don't think.

Q All right, when the rap came at the door what did you do?

A I went and answered the door and they asked me if I was interested in any books. I hesitated there for a minute and I said yes, and this gentleman here (indicating)—

Q By this gentleman who do you mean?

A Anthony Maltezos, and Anthony asked me if I would like to hear that record he had in his victrola. I said, "Yes, come on in." So he came in—

Q Did anybody come with him?

A Him and Anna Perisich, she came in along too. So they put the record on and played it, the record run down, and I said, "It's a damn good record." That's the words I said. So they asked me if I was interested in buying any books. I said I might. So they handed me this book Salvation. I opened it up and started to look at it and I asked them how much they charged for these books. They says 25c. So I hesitated for a moment, and I said, "All right, I will take one," and gave them a quarter.

Q Who did you give the quarter to?

A To Anna Perisich. I gave a quarter to Anna and she gave me the book, and she says, "I am going to give you this book."

Q By this book you mean the pamphlet called Government and Peace?

A Government and Peace, yes, sir. I said, "O. K., thanks." I said to them, "Have you got any Bibles?" He says, "Yes, the Bible will cost 25c more." He said, "You'll get a bargain on that."

Q Who said that?

A This gentleman right here (indicating).

Q That is Anthony Maltezos?

A Yes. He says, "You're getting a bargain on that; that book is worth three dollars or three and a quarter." I said, "No, this will be enough for me to read." Well, they started to get their brief case and victrola put together and I said, "I'm sorry, you both are under arrest." They wanted to know what for. I told them for soliciting and selling books without a permit. I said, "I'm a policeman."

Q Did you ask them whether they had a license?

A Well, no, not just then; and then this woman spoke up, she said, "This is only a donation; this is only a donation." I said, "Well, I'm sorry, I'll have to take you up and lock you up." So on my way going up I asked them if they had a permit or license to go around.

Q What did they answer?

A They said no.

MR. TRESCHER: All right, do you want to ask some questions (addressing Mr. Hessler)?

### CROSS EXAMINATION

Mr. Hessler.

Q Officer Kramer, when you secured that book did Mr. Maltezos make it very clear that the book was left for a contribution of 25c?

A No, not until they were under arrest.

Q When you secured the book you secured it with full knowledge of your intent to place them under arrest as soon as you had got it?

A Well, yes. If they showed me a permit or a license—

Q You didn't ask them for a permit though?

A I asked them for a permit before I left my home.

Q You didn't say that; you said on the way down.

A On the way out I says.

Q But you had placed them under arrest before you asked them for a permit, didn't you?

A Yes, I did.



Q In other words; you bought the book knowing that you were going to place them under arrest?

A If they didn't have a license.

Q But you didn't ask them if they had a license?

Mr. Hessler:

Q Isn't that the way it was?

A I wouldn't say later on. A few seconds.

THE COURT: Well, I will clear that up.

The Court:

Q Did you have any knowledge before that there weren't any permits issued for them?

A I knowed it.

Q How did you know it?

A Because we had trouble and I asked the Chief,—I told the Chief to let me know if he ever issued any permits.

Q You were up here during the day, were you?

A Yes, sir, I was.

Q The other arrests were made previous to that?

A Yes, sir.

Mr. Hessler:

Q Did they show you a card?

A No, they didn't show me their card.

Mr. Trescher:

Q Did Anna Perisich give you her address?

A Yes, she did.

Q Is that 927 Toman Avenue?

ANNA PERISICH: 929 Toman Avenue, Clairton.

A That is the address she give me.

Q Did Anthony Maltezos give his address as 226 Eleventh Street, McKeesport, Pennsylvania?

A Yes, he did.

Q And their ages respectively were 40 and 38?

A Yes, sir.

The Court:

Q I want to ask, what was said about the Bible? I didn't hear that very distinctly.

A Well, the Bible, I asked them if they had any Bibles and they said, "Yes, it will cost you 25c more," and when I said, "No, this will be enough reading in here for me I think," he said, "Well, you're getting a bargain, the Bible is worth three to three and a quarter."

Mr. Hessler:

Q Did they play a record for you?

A Yes, they did.

Q Did you listen to the record?

A I listened to some of it.

Q And you found nothing objectionable in the record, did you?

A Well—

Q You didn't hear them downing religion, did you?

A Why, I used the alibi of a damn good record, for my opinion, for my police work.

Q It was a good record?

A No, for my police work, to find out about the books, if they were selling the books, to make sure of myself.

Q I don't understand that.

A I said it was a damn good record; I wanted to make sure that they were selling books and get everything clear.

Q You told them it was a damn good record?

A That's what I said.

Q And you used that as an alibi to make sure they were selling the books?

A Yes, sir.

OTHMAR SEILER, a witness called and produced on behalf of the Commonwealth, having first been duly sworn, testified as follows:

## DIRECT EXAMINATION

Mr. Treschier;

Q Your full name is Othmar Seiler?

A Yes, sir.

Q And you are one of the firemen of the City of Jeanette?

A Yes, sir, and sworn in as a police.

Q As a police officer as well?

A Yes, sir.

Q Mr. Seiler, were you at your home on the 25th of February?

A Yes.

Q Did you see the defendants, Anastasia Tzanes and Ellaine Tzanes,—did you see those two defendants at your home?

A Yes, sir.

Q Where is your home?

A 50 Cuyler Avenue.

Q In the city?

A Yes, sir.

Q About what time did they come to your home?

A Around 11:40 in the morning.

Q What if any equipment did they have with them?

A They had a portfolio of some kind with books in it and I think they had a victrola. They didn't offer to play anything for me. Each one of them was carrying something.

Q Did you answer the door?

A No, my wife answered the door and they showed her a card and she called me and I went out and I just glanced through the card: I didn't read much about it, and I seen something about 25c for books at the bottom of the card. So I said to the ladies, "Are you people selling books?" She said yes. I said, "How much are they?" She said, "They are a quarter." She said, "But for 50c we could sell you this book and sell you the both." I said, "How much do you want for this book I have in my hand?" She said, "That book is a

quarter and if you buy the both of them you can have them for 50c." So I just bought the one book for a quarter..

Q What was the name of the book you bought?

A I think Creation. It is in the desk here locked up.

(After the desk was unlocked the witness produced a book and a pamphlet)

Q Is the book with the blue or combination of blue and green cover called Creation the book that you bought?

A That is the book I bought, and when I bought the book the lady said, "Here I will give you this little pamphlet with it."

Q And by that you refer to the pamphlet called Government and Peace?

A Yes.

Q Who handed you the book?

A The old lady.

Q That is Anastasia?

A Yes.

Q And to whom did you give the money?

A The young lady.

Q That is Ellaine?

A Yes.

Q What did you then do, Mr. Seiler?

A Well, after I had give her the money I told her she sold this book to an officer and I would have to take her down to jail and put her under arrest,—I would have to take her to jail. She said she wouldn't go to jail unless she was put under arrest, so I said, "Well, you are under arrest, so you will have to go down with me." Coming across the street she wanted to know where my badge was. I said, "I don't have it with me but I can very soon prove I am an officer." There was no one else here when I came down; I went through the desk with the keys; I said, "I am very familiar with this," and I said, "I guess you know I am an officer by this time." She said, "Yes, I think you are an officer now."

Q Did you ask the defendants or either of them whether they had a license?

A No.

Q Did you ascertain from the records here that they did not have a license?

A From the past records, that is the reason I didn't bother asking them whether they had a license.

Q Where did they have these books?

A In one of them portfolios, sort of a little satchel they had with them in.

Q Did they have a number of books?

A Well, they didn't have so many in it. They had just the one Bible I think.

Q But other copies of the book called Creation?

A In that?

Q In that—

A Well, I didn't see the name of them.

Q But there were other books?

A Yes, sir.

### CROSS EXAMINATION

Mr. Hessler:

Q What did you say your full name is?

A Seiler, S-e-i-l-e-r.

Q What is your first name?

A Othmar, O-t-h-m-a-r.

Q Mr. Seiler, you stated that they handed you a card,—do you recognize that (indicating),—something about 25c on it?

A No, I don't think this is the card.

Q Take a look at the bottom. You said something about 25c at the bottom.

A That don't look like the card to me.

Q You said you read something about 25c?

A That isn't the card I seen.

Q Just what was the card?

A It is a card sort of that color, but that isn't the card.

Q Was it one like it?

A I answered your question on the card.

Mr. Hessler:

Q You stated you placed them under arrest and you did so without asking them whether they had a permit or not?

A Yes.

Q You didn't know at that time whether they had a permit or not,—it made no difference to you?

A I knew they wouldn't have gotten it if they did ask for it.

Q You are almost certain of it?

A Yes, positive.

### COMMONWEALTH RESTS

MR. HESSLER: At this time, for the sake of the record, we would like to make a motion on behalf of the defendants.

The defendants move to dismiss this case and for their discharge upon the following grounds:

That the complaint is invalid and does not state facts sufficient to constitute an offense under the law.

That the ordinance in question is in direct conflict with the Constitution of this State and of the United States, in this: that it restricts the freedom of speech, freedom of press, and freedom of worship of Almighty God.

That the ordinance in question is in direct violation of the Fourteenth Amendment of the Constitution of the United States.

That the evidence by prosecution shows defendants are not guilty.

The defendants therefore pray this Court to dismiss this case and that they be discharged.

I make that motion on behalf of the eight defendants. I will leave with you a copy of the motion.



(Mr. Hessler hands to the Court a copy of the motion just made in each individual case.)

THE COURT: The motion is denied. Proceed with the defense, if you have any.

#### DEFENDANTS' CASE

ROBERT LAMBORN, one of the defendants, called as a witness in his own behalf and on behalf of his co-defendants, having first been duly sworn, testified as follows:

#### DIRECT EXAMINATION

Mr. Hessler:

Q Mr. Lamborn, what is your address?

A Cadiz, Ohio, R. D. 2, Route 2.

Q And your full name?

A Robert Lamborn.

Q What is your occupation?

A My occupation is as a minister to preach the Gospel of God's Kingdom, better known as one of Jehovah's Witnesses, who go about from house to house as commanded by Almighty God. In Acts 20: 20 is found an account of that, the same as the Lord Jesus did preach the Kingdom of Heaven is at hand, and if you would turn to Isaiah 43rd chapter—

Mr. Hessler:

Q Now, Mr. Lamborn, just tell us what you did when you went to the homes in Jeannette.

A I visited the home of the young lady over there (witness indicating one of the Clair sisters); she invited us in to play the recording entitled Snare and Racket, and after the recording finished Mr. Murdock did the talking.

Q Will you play some of that record, Mr. Lamborn, so she can identify the record?

A Yes, gladly. We presented this record to the lady: (The record referred to was played on the victrola by the witness, and is as follows:) It is often said that religion is a snare and a racket, and why? Religion had its origin with

Satan who employed religion to reproach Jehovah, the Almighty God. Religion was first organized with Nimrod as leader and he was the one whom the people were taught to worship, and that was done in defiance of God.

The original inhabitants of Canaan were devil worshippers. God sent his chosen people the Israelites, to inhabit that land and in order to safeguard them from religion God commanded that the Israelites should worship him alone and not worship another. His command to the Israelites concerning religion informed them that religion would turn them away from God and lead them into destruction, and then he added these words: "Neither shalt thou serve their religious gods, for that will be a snare unto thee." Again God said to his chosen people whom he had brought into Canaan, "And ye shall make no league with the inhabitants of this land; their god shall be a snare unto you." The Israelites fell under the influence of religion, became ensnared and worshiped idols and concerning this it is written in the Psalms, "And they served other idols which were a snare unto them."

When Jesus came, the clergy of the Israelites had adopted and were practicing religion instead of the true worship of God and Jesus told them that by so doing they had made void God's word and prevented the common people from hearing the truth. Those clergymen claimed to be serving God, but Jesus told them in plain words that they were serving the Devil. The clergy had caused the Jewish nation to be ensnared by religion. Even Saul, afterwards called Paul the Apostle, was caught in that snare, and when he learned the truth he became a Christian. Paul wrote to the Christians these words: "For ye have heard of my life course in times past in the Jews' religion, how that beyond measure I persecuted the church of God and wasted it." Furthermore he stated, when before King Agrippa, charged with the crime of serving Christ, "Those who knew me from the beginning, if they would testify to the truth, would know that after the most straightest sect of our religion I lived a Pharisee."

There are many religions, all of which tend to turn the people away from the true Almighty God. Because religion is wrong does not mean that the many people who ignorantly practice religion are bad. For instance, the Democratic party says that the principles of the Republican party are bad. That does not mean that all Republicans are bad. Religion is wrong and a snare because it deceives the people, but that does not mean that all who follow religion are willingly bad. Religion is a racket because it has long been used and is still used to extract money from the people upon the theory and promise that the paying over of money to a priest will serve to relieve the party paying from punishment after death and further insure his salvation. Surely Almighty God is not a party to granting favors upon a money consideration. A small number of men lead in religion and extract money from the great masses who ignorantly pay out their money and receive nothing in return. That is the worst kind of racket.

Christianity means to follow exactly in the footsteps of Christ Jesus by believing and teaching the Bible, the word of God, and which is given for the instruction of all people who love righteousness. The books entitled "Enemies" and "Salvation" show the clear distinction between religion and Christianity and aid all sincere persons to choose the right way. By means of religion the Scriptures say that men pretend to worship God with their mouths but their heart is far removed from him. Those who practice Christianity worship God in spirit and in truth. Religion leads men to destruction. Christianity is the way to salvation and life everlasting. The truth is placed before the people that they may have the opportunity to choose which they desire: Religion, with death; or Christianity, and life.

MR. HESSLER: I will offer the record in evidence and I would like to leave the record as part of the evidence.

Mr. Hessler:

Q Then what happened, Mr. Lamborn?

A After the record had finished Mr. Murdock did the talking.

MR. HESSLER: I would like to ask Mr. Murdock a question now.

ROBERT MURDOCK, JR., one of the defendants, called as a witness in his own behalf and on behalf of co-defendants, having first been duly sworn, testified as follows:

### DIRECT EXAMINATION

Mr. Hessler:

Q All right, Mr. Murdock, what did you do?

A Well, after the lecture was finished, well, then we brought to the attention of the people words to the effect that we were engaged in the work of proclaiming Christ's Kingdom by means of Watch Tower Bible Publications, and then we presented to the people, the woman that answered the door, the Salvation book, and which sets forth the life provision which Christ Jesus has promised to those who love and serve him, and also we brought to their attention that if a person desires to obtain salvation it is to his advantage to carefully consider the book Salvation with the Bible, and in that way you will receive some very important truths. Also the book Government and Peace, we brought it to their attention that that book contains a vital Bible message, which if a person studied they would also see what kind of government we would set up, and also that if they are righteous and love the Lord and seek to serve Him they will have great provisions for them in the Theocracy.

Q Then what took place?

A Then I presented the book to this woman there (indicating)—

Q Which one?

A The one with the glasses on. I don't know her name.

MR. HESSLER: Is that Lillian?

LILLIAN CLAIR: Yes, sir.

A (continuing) Just as she testified; that she didn't want anything she had to pay for, and then there was another one there, but I am not sure, I can't identify her, this one here (indicating), she was the one that said she wanted to obtain the book; she said she would take it. So then I presented to her the Government and Peace book together with the Salvation book and the Kingdom News, and in front I made it plain that our work is one that the contribution was one to aid in further publishing others and not to help us. I remember making that very plain so that they wouldn't think they were taking it just to help us, but that they were taking it for their own benefit. So then I presented the book to them and she accepted it and contributed a quarter, and we thanked them and left.

MR. LAMBORN: We also told them to be sure to read the publications.

MR. HESSLER: That is all.

THE COURT: I would like to ask you, your name is Murdock?

A: Yes.

The Court:

Q Are you paid for this work on a per diem basis?

A No.

Q Are you paid at all?

A No.

Q You do this free of charge?

A In what way? I don't quite understand your question.

Q Are you paid anything for what you do?

A No.

Q Do you travel at your own expense?

A I did.

Q Do you now?

A Yes, I did completely from Aliquippa.

Q You received no remuneration from anyone at all—

A I don't understand that word remuneration.

Q You receive no pay for your work at all?

A No.

ROBERT LAMBORN, one of the defendants, recalled as a witness, having previously been duly sworn, testified as follows:

The Court:

Q How about you, do you receive any pay for your work at all?

A The same; the same answer as he gave; I receive no pay, exhibiting of the Kingdom's Message.

Q Did you get anything of value from anyone for the work you did?

A We only received a small contribution. We told the people that this small contribution was used to publish other like publications so that the people may be further enlightened upon the Scriptures and learn of God's gracious provisions made for them—

Q What I am talking about is, were you paid by these Watch Tower people for the work you did?

A No.

Q You do all that work free of charge?

A Free of charge, on my own expense.

### CROSS EXAMINATION

Mr. Trescher:

Q Mr. Lamborn, when you were interrogated in your examination in chief you stated that your occupation was that of minister?

A Yes.

Q Is that correct?

A Yes.



Q Is that your only occupation?

A My only occupation is minister to preach the Gospel of God's Kingdom.

Q Do you have no income from that occupation?

A No, sir, I don't.

Q Where do you live?

A In Cadiz, Ohio, on a farm.

Q How long have you been a minister?

A For about a year.

Q How do you become a minister?

A Through the same way that Jehovah's Witnesses are exhibiting their Kingdom Message from door to door, I became interested.

Q And how did you become a minister?

A By learning more of God's gracious provisions made for humankind and, as Isaiah says, "Ye are my witnesses, saith Jehovah, and I am God." And he sends forth His witnesses to proclaim His message, and if we want to gain salvation through everlasting life we must tell the people of God's gracious provisions.

Q Did somebody make you a minister?

A No.

Q What did you do to become a minister?

A We go out from house to house exhibiting publications.

Q Where do you get those publications?

A I get those publications from the Watch Tower Bible and Tract Society, Brooklyn, New York.

Q How many publications did you have with you yesterday, the 25th?

A I couldn't make an exact statement. I don't know.

Q Did you have a suitcase full?

A I had my little satchel full, yes.

Q When had you gotten those?

A Before I left home.

Q That is before you left Cadiz, Ohio?

A Yes.

Q When did you leave Cadiz?

A Saturday, about 11:00 o'clock in the morning.

Q How did you go?

A By automobile.

Q Do you have your own automobile?

A No; I have my dad's automobile.

Q Had you paid for those publications?

A Yes.

Q How much do you pay for them?

A I couldn't say the exact amount, because I didn't know how many publications that I had.

Q How much do you ordinarily pay for this book Salvation?

A It is offered to the public on a contribution of 25c.

Q How much do you pay for it?

A Twenty cents.

Q Do you pay cash before you get it?

A Sometimes.

Q Well, did you pay for these particular ones?

A Yes.

Q You paid 20c each?

A For the bound volume Salvation and other like publications.

Q And you pay 20c each for the Bibles that you sell?

A Well, I didn't have any Bibles with me.

Q Approximately how many books of Salvation did you have with you?

A I had three when I left Cadiz. I had two when I started to witness here in Jeannette.

Q Do you pay anything to the Watch Tower Society for the pamphlet Government and Peace?

A That is given to the publishers for a small sum also. The publishers are Jehovah's Witnesses.

Q But you have to pay for them before you get that, is that right?

A Sometimes. You can obtain them on credit of course.

Q You can obtain them?

A Yes.

Q And when you do obtain them on credit you are billed at the rate of 20c apiece?

A Not on Government and Peace.

Q I am talking about the book Salvation and similar publications.

A Yes.

Q And so the bound volumes you must pay for at the rate of 20c each, whether you buy them on credit or whether you pay for them in cash?

A Yes.

Q Did you pay cash for these particular ones?

A Yes.

Q How many books had you bought altogether?

A For this trip do you mean?

Q Yes.

A I had three Salvation books and two Enemies books.

Q Do you rate the book Enemies the same as the book Salvation and do you pay 20c per volume for it?

A Yes.

Q When had you bought the books for this particular trip?

A Just the day that we left, in the morning.

Q Had you sent to New York for them?

A No.

Q Whom did you buy them from?

A We have a Cadiz, Ohio Company, of Jehovah's Witnesses and all companies are provided with ample stock and we obtain them from the stockroom, and contributed or rather paid the amount that they cost.

Q And you paid \$1.00 for those five books?

A Yes.

Q Paid it in cash?

A Yes.

Q And you got some tracts with them?

A What?

Q Some tracts or pamphlets such as Government and Peace?

A Yes.

Q You didn't pay anything for those?

A Yes.

Q How much did you pay for the pamphlets Government and Peace?

A Two and a half cents,—rather three cents.

Q Each?

A Yes.

Q How many of those did you get?

A I don't recall.

Q Do you go out every day with these books exhibiting the Word of God as you describe it?

A Every day in my spare time.

Q Do you always get your books from the supply house at Cadiz, Ohio?

A Yes.

Q Do they maintain an office and a storehouse there?

A We have an office and a storehouse in our home.

Q Do you work with other people from other parts of the country?

A Well, I work mainly around Cadiz, Ohio. I attended this assembly at Braddock, Ohio—

Q When?

A February 24th and 25th.

Q The 25th was yesterday.

Mr. Hessler.

Q You mean Braddock, Pennsylvania?

A Braddock, Pennsylvania, rather.

Mr. Trescher:

Q And so you left Cadiz on Saturday the 24th and went to McKeesport, did you say, or Braddock, Pennsylvania, rather?

A Yes, Braddock.

Q And were other people there?

A Yes.

Q Other Witnesses?

A Yes.

Q How many?

A I don't know.

Q How many did you see?

A I didn't take any account of them. I wasn't there to count how many was there. That wasn't my purpose.

Q Did you go to any homes in Braddock?

A No.

Q Didn't make any solicitations at all on the 24th?

A No.

Q Didn't dispose of any books or any tracts of any kind?

A No.

Q How did you know to go to Jeannette on the 24th?

A How?

Q Yes.

A They give us that territory.

Q Who gave you the territory?

A The Territory Servant.

Q Who is the Territory Servant?

A I don't know his name. He is a stranger to me.

Q Where did you see him?

A In Braddock.

A How do you know he was a Territory Servant?

A How do I know?

Q Yes.

A He was taking care of all the territorial data.

Q In other words, does your organization split up and a certain number of you go to a particular territory or community and make solicitations?

A We don't make solicitations.

Q Well, make calls then.

A Yes; we offer them the Kingdom Message in printed form and also through the use of phonograph records.

Q Now, then, you say the man who told you to go to Jeannette you did not know?

A No.

Q Why did you go in response to his direction? Wasn't there something that indicated who he was, that he had authority to send you?

A Well, we were all, each given territories to work, to offer the Kingdom Message to, and he give me the territory up around Seventh Avenue or some place around in there.

Q Was that down in Braddock that you were given that territory?

A Yes, sir.

Q You mean somebody down in Braddock told you to take Seventh Street in Jeannette?

A The Territory Servant.

Q They what?

A The Territory Servant did.

Q But you don't know that man's name?

A No.

Q Where did you stay while you were in Braddock?

A Where?

Q I say where did you stay?

A At night you mean?

Q Yes.

A At a sister's home in Braddock, Ohio,—Pennsylvania, rather.

Q Did you take your meals there?

A Yes. We had breakfast there only.

Q Did some of the other Witnesses take breakfast there too?

A Just her herself and my dad. There was three of them in that home.

Q Are there other members of your family also ordained ministers and doing the same thing?

A Yes, all of my family; not my family, but the family are.



Q By the family you mean your father and mother and brother and sister?

A Yes; father and mother and sister and myself. That is four of us altogether.

The Court:

Q This sister that you speak of in Braddock, is that a blood relation?

A Yes. Her home isn't in Braddock; it is in Cadiz, Ohio.

Mr. Trescher:

Q Is she living in Braddock?

A No, she is living in Cadiz, Ohio.

Q I thought you stayed at her home in Braddock?

A I don't think I made such a statement.

Q Where did you state you stayed in Braddock?

A A sister's home. We call each other sisters and brothers in the truth. In other words, she was a friend, a woman. She wasn't no blood relation, if that is what you refer to.

Q That is what I understood when you said a sister's home. Where did you meet in Braddock?

A At the Carnegie Library.

Q Is there a storeroom or an office where the Watch Tower publications are sold to the ministers in Braddock?

A Not in the Carnegie Library, no.

Q In the town?

A Yes.

Q Where is that?

A I don't believe I know. As I said before, I am a stranger around here. I had the literature before I came, so I didn't obtain any literature from Braddock, Pennsylvania.

Q Now, then, you do receive the difference between what you pay for these booklets and what the person who either buys or contributes for them turns over to you, do you not?

A The money that is contributed is turned over to the Watch Tower Society.

Q Don't you receive anything at all?

A No, sir.

Q How do you live?

A I am a farmer by trade. As I said before, I preach the gospel in my spare time.

Q How do the rest of your family live if they—

A We all live on the farm.

Q All live on the farm?

A Yes.

Q You presented some card here which certified that you were an ordained minister?

A Yes, I presented this card to you (witness hands card to the Court who in turn hands it to Mr. Trescher).

Q How did you obtain that card, from whom?

A If you will just read it there you will see.

Q Can't you tell me? It reads "Watch Tower Bible and Tract Society, J. T. Rutherford, President." Did you obtain it from him?

A I obtained it from the Watch Tower Bible and Tract Society.

Q In Brooklyn, New York?

A Yes.

Q Do you know how many came to Jeannette with you yesterday?

A With me?

Q Yes.

A To Jeannette yesterday?

Q Yes.

A Five.

Q Do you know how many Witnesses came altogether?

A I don't have an exact account of it, not.

Q Do you know approximately?

A No, I don't know.

Q Did you have any scheduled meeting place when you got to Jeannette?

A No; we were all given our territories and we were to go to those territories and work.

Q That is, when you were over in Braddock someone whose name you don't even know assigned you a territory in Jeannette?

A The Territory Servant, yes.

Q Were you scheduled to be back in Braddock at any particular time?

A When we finished our territory I believe.

Q How big a territory did you have?

A Well, I couldn't say how big it was, because I don't know the town.

Q And you don't know how many books Murdock had?

A He was carrying the same case that I had. We were working together.

Q Didn't he have any books of his own?

A No.

Q Where did you get this victrola you were carrying with you?

A Where did I get it?

Q Yes.

A I got it from the Watch Tower.

Q Did they supply you with that victrola?

A Yes.

Q And with the record?

A Yes.

Q Did you pay anything for it?

A Yes.

Q How much did you pay?

A Seventy cents for the record and eight dollars for the victrola.

Q Did you pay that in cash?

A Yes.

Q Do you mean to say you have no way of getting that back?

A I don't get what you mean.

Q I mean you are not reimbursed for that in any way by any money?

A Not financially, no. As I said before, Jehovah's Wit-

nesses do their work of their own free will. We pay our own expenses, if that is what you are driving at.

MR. TRESCHER: That is all.

REDIRECT EXAMINATION

Mr. Hessler:

Q You had a card there. (Witness produces card) What does it say on that card? Is that your credentials?

A Do you want me to read it?

Q Yes.

A (Reading) "This is to certify that Robert Lamborn, whose signature—"

Mr. Hessler:

Q Now, Mr. Lamborn, just why do you engage in this work?

A Because I love the Lord and Jehovah God specifically commands us to go forth and preach the Gospel so that other people may learn of the Theocracy or Christ's Government that will be set up here on earth, at which time when this government will be set up, all Satan's wicked organization will be destroyed, and those organizations consist of religion, politics and commerce, and those organizations will be destroyed by the hand of Almighty God.

THE COURT: Put in the record there that he glanced at the mayor when he said "politics".

A (Continuing) And we are commanded by the Lord to go about from house to house exhibiting this Message to the people so that they may have the opportunity to choose whom they will serve. As this record Snare and Racket says, "If you choose religion you will die, and if you choose Christianity you will live."

Q You do this work then in obedience to the command of Almighty God?

A Yes, sir.

Q And is this your method of worshipping Almighty God?

A Yes.

Q By going from house to house and presenting them this information in printed form?

A Yes.

Q Now you accepted the 25c for that book and you stated that you paid 20c and, as the attorney for the prosecution stated, there is a margin of 5c profit. Do you ever give any literature away?

Q Yes.

Q Who pays for the literature you give away?

A I do.

Q Did you give any literature away yesterday?

A Yes.

Q Now you stated something about three and a half cents for this booklet, that you paid for that. Is that the price for that booklet?

A That is the price that is given to the publishers.

Q Did you give any of them away?

A Yes, I gave two of them away the 25th over in Homestead.

[Front of card]

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY THAT Robert Lamborn whose signature appears below, is an ordained minister of Jehovah God to preach the gospel of God's kingdom under Christ Jesus and is therefore one of Jehovah's witnesses; that he is sent forth by this Society, which is created and organized and chartered by law to preach the gospel of God's kingdom, and that Jehovah's witnesses are commanded to obey God by preaching the gospel, which commandments appear in the Bible at Isaiah 61: 1, 2; Isaiah 43: 9-12; Matthew 10: 7, 12; Matthew 24: 14; Acts 20: 20; 1 Peter 2: 21; and 1 Corinthians 9: 16; and that Jehovah's witnesses are compelled to obey God rather than men. (Acts 3: 23; Acts 4: 19; and Acts 5: 29)

THAT in obedience to God's commandments Jehovah's witnesses preach the gospel and worship Almighty God by calling upon the people at their homes and exhibiting to them the message of said gospel in printed form, such as the Bible, books, booklets and magazines, and thus afford the people the opportunity of learning of God's gracious provision for them.

THAT said witness of Jehovah is doing this work of bearing testimony before the people in strict accord with the fundamental law of the land and in obedience to God's law, which is supreme. Any kindness and consideration shown this witness of Jehovah will be greatly appreciated and is certain to call forth the blessing of the Lord upon the one showing such kindness. (Matthew 25: 31-46)

WATCH TOWER BIBLE & TRACT SOCIETY

J. F. RUTHERFORD *President.*

[signature]

Name .....

Address .....



[Back of card]

**TO THOSE OF GOOD WILL:**

All the facts agree that the nations are approaching the great climax. Armageddon is near. Many persons sincerely desire to escape that disaster and gain salvation to everlasting life. Those who are of good will toward Jehovah and His kingdom may have such salvation. Just how may salvation be obtained? The Bible, which is the Word of God and which is infallible, tells of the way. This book SALVATION will help you to learn from the Bible exactly what you need to know.

No religious or other human institution can aid you and gain for you salvation. It is written, "Salvation belongeth unto the Lord." (Psalm 3: 8) Follow His instruction and live.

You may contribute twenty-five cents to the Lord's work and receive a copy of this beautiful book.

The Court:

Q Did you learn yesterday sometime or other that there had been two women arrested of your group in the morning?

A Yes, I heard of it.

Q Did you go around then and tell the people that two of your people had been arrested by local officers?

A Did I go around?

Q Yes.

A I was only in here 20 minutes before we were picked up by the police.

Q How did you learn that two of your people were arrested?

A We were informed.

Q By whom?

A By the brothers in charge in Braddock.

Q You learned that in Braddock?

A Yes.

Q Before you came to Jeannette?

A Yes.

Mr. Trescher:

Q Who were the brothers in charge?

A Brother Hessler and Brother Singer; rather I should say Charles Hessler and Earl Singer.

Q But they were not the Territory Directors that you described awhile ago?

A No.

Q Were they in Jeannette?

A Who are you referring to?

Q Mr. Hessler and Mr. Singer.

A At what time?

Q At any time yesterday that you know of.

A Yes, they came over Sunday evening.

Q That is after you were arrested?

A Yes.

Q But they knew before that some other members had been arrested here in Jeannette?

A Yes.

Q Before they sent you here?

A Yes.

Q You did not have a permit?

A We don't apply for a permit from man.

Q Well, did you have a permit?

A We had a permit from Almighty God.

Q Did you have a permit from the City of Jeannette?

A No.

ROBERT MURDOCK, JR., one of the defendants, recalled as a witness, having previously been duly sworn, testified as follows:

Mr. Trescher:

Q Your home is in Aliquippa?

A Yes.

Q When did you leave Aliquippa?

A Well, I left Aliquippa,—I can't be exact, but it was in the morning pretty early; around about 9:00 o'clock I imagine. Nine o'clock.

Q What day?

A On Sunday.

Q The 25th?

A The 25th I imagine it was.

Q Did you come direct to Jeannette?

A From Aliquippa, no.

Q Where did you go first?

A I went to Braddock.

Q Where did you go in Braddock?

A To the Carnegie Library. On Library Avenue I think it is.

Q Did you know that there was a group meeting there?

A Yes. That is why I went there.

Q How did you know that?

A Well, I was,—well, we are informed through our company of assemblies which we have a privilege to attend. Assemblies are for the purpose of proclaiming Jehovah God's Kingdom and encouraging others to have part in this work.

Q Was that assembly held at Carnegie Library in Brad-dock?

A Yes, and the luncheon was over at, I think,—I am not sure of the place there,—I think it is Masonic,—I think it is the Masonic Hall.

Q Was that luncheon served by the local Witnesses?

A Well, I don't know anything about that.

Q How many people were at the lunch?

A Well, I couldn't give you any idea.

Q What time did you come to Jeannette?

A To Jeannette? I arrived about,—let's see,—it must have been pretty near,—about five o'clock. Pretty near around that time.

Q At whose direction did you come to Jeannette?

A I came of my own accord.

Q Nobody told you to come?

A Nobody told me to come.

Q Nobody assigned you any territory?

A I wasn't assigned territory, no.

Q Are you an ordained minister too?

A Yes, I am.

Q Are all members of Jehovah's Witnesses ordained ministers?

A If you are engaged in preaching the Gospel of Jehovah God's Kingdom you are.

Q Did you have any books?

A No, I didn't, not of my own. I only carried Roberts satchel.

Q Did you have any phonograph?

A Not of my own.

Q Did you ever buy any books?

A From where?

Q From any of the Watch Tower Society stores.

A Yes, I have. I have obtained books.

Q What do you mean, you bought them or not?

A Yes.

Q Did you pay for them?

A I paid for them.

Q How much did you pay for them?

A Well, our company, the Salvation book we receive it at a 25c contribution.

Q You mean you make a contribution of 25c—

A Yes.

Q —and they give you a book?

A Yes.

Q What book did you get for 25c?

A We get all our bound volume publications of that size.

Q How many have you bought?

A Well, I can't be exact, because it has been sometime. Whenever my supply is low and I am able I obtain another one.

Q Where do you ordinarily buy your supplies from?

A Well, what do you mean by buying? You mean obtain them?

Q Yes, obtain them.

A Well, I obtain them from the Ambridge Company of Jehovah's Witnesses.

Q They have a store in Ambridge?

A No, they don't have a store. They have a meeting place.

Q Do they have a storehouse or warehouse?

A Well, they have a stockroom.

Q And they maintain some sort of headquarters there?

A Well, yes, that is a sort of headquarters.

Q How often have you obtained books there?

A Well, I can't be exact. As I say, whenever I see it is needed I would obtain them.

Q About how many times a week or a month would you need books?

A It just depends on the different months. It depends on what we are presenting.

Q What would your average be?

A I couldn't tell.

Q Did you ever obtain any without making a contribution?

A On credit I have, yes.

Q You mean they trusted you for the contribution that you had to later make?

A Yes.

Q Did they charge you up with the contribution?

A Yes, they credited me; they charged me up with a credit slip, yes.

Q And was that at the rate of a contribution of 25c for each book?

A Every bound book, yes; Salvation and the other bound volume.

Q You never got any at the Ambridge store for 20c?

A No. That is what all the publishers obtain for them, 25c.

Q Mr. Lamborn said he got them from the Cadiz store at 20c. You never bought any out there?

A I never was there to obtain any, no.

Q Did you know Mr. Lamborn before you came to Jeanette yesterday?

A I met him as we were getting ready to go.

Q That is the first you ever saw him?

A Yes, to recognize him. That is the first time we met.

Q Do you have any occupation other than that of being a minister?

A No. I am going to school.



Q Where did you go to school?

A At Aliquippa High.

Q What is your age?

A I am eighteen.

Q And you have been a minister for approximately a year?

A I don't know now; practically almost four or five years.

Q Do you have to have a card before you could obtain any of these books?

A What kind of card are you referring to?

Q An identification card.

A No. I get my identification card afterwards, when I obtain and present to the people. That is when I get it.

Q Who did you get that from?

A I received it from the company.

Q In Aliquippa?

A In Ambridge.

Q And when you got some books there you got that card?

A Not exactly. I don't get a card every time I get books, but I get a card to present my books, to present them to the people, and to serve as identification in case of disturbance.

MR. TRESCHER: I think that is all.

The Court:

Q How many different kinds of cards do you have?

A Well, it just depends. Sometimes we get a card for the latest publication out and we receive our different cards. This card here (indicating) is for the Salvation book, and then we had a card—

Q That is the card that says 25c?

A Yes.

Q Some of them have 10c on.

A It depends on what they are presenting, yes.

Q This young lady over here said in response to her question as to how much this book was you said 25c, is that correct?

A Well, I didn't say it. I did say 25c, but I did make it plain that was only to help to defray the cost of publishing and it wasn't to help me.

Q You don't give these bound volumes away, do you?

A No, I didn't.

THE COURT: That is all.

### REDIRECT EXAMINATION

Mr. Hessler:

Q Mr. Murdock, are you an ordained minister?

A Yes, I am.

Q How do you become ordained?

A Well, reading from Isaiah 61: 1, 2, which reads, "The spirit of the Lord is upon me, because the Lord has anointed me to preach good tidings unto the meek; He hath sent me to bind up the broken-hearted, to proclaim liberty to the captives, and the opening of the prison to them that are bound; to proclaim the acceptable year of the Lord, and the day of vengeance of our God; to comfort all that mourn." And also here in Isaiah, the 43rd chapter in the 11th and 12th verses which read, "I, even I, am the Lord, and besides me there is no saviour. I have declared, and have saved, and I have showed, when there was no strange god among you; therefore ye are my witnesses, saith the Lord, that I am God."

Q Are there any other Scriptures there that are given to you as a Christian,—in the first place are you a Christian?

A Yes, because I follow the teachings of Christ Jesus. Christ says, "If you love me keep my commandments," and to the best of my ability I am striving to keep the Lord's commandments.

Q What are some of those commandments?

A The main ones which he gave to his apostles is found

in Isaiah, 24th chapter, 14th verse, which reads, "And this Gospel of the Kingdom shall be preached in all the world for a witness unto all the nations, and then shall the end come."

Q Where is that found?

A In Matthew, the 24th chapter, the 14th verse.

Q It is not in Isaiah?

A No, pardon me, in Matthew. And then the method which I preach is by going from door to door, which is found in Mark, 6th chapter, 6th verse, which reads, "And He marveled because of their unbelief and he went around about the villages teaching." And also in Acts 20: 20,—and a follower of Christ Jesus was the Apostle Paul, he was a Christian also and he engaged in preaching from house to house,—and in Acts 20: 20 it reads, "And how I kept back nothing that was profitable unto you, but showed you and have taught you publicly and from house to house." And these Scriptures here together with many others prove that Christ and his true followers, the Christians, are engaged in house to house witnessing; that is, that obligation is laid on everyone who wants to be a true Christian by preaching the Gospel of Jehovah God's Kingdom and Christ Jesus His King.

Q You were not surprised, were you, when you were arrested for going around?

A No, I wasn't surprised, because the Bible states Christ Jesus when He was on earth, He said, "If you love me keep my commandments." He says, "I am not of this world therefore," and He said also that the servant is no greater than the master and He is our Master, so therefore He was persecuted and crucified by religionists because He was engaged in door to door witnessing and preaching the Gospel throughout the temples. So he says, "If you love the world, the world will love their own, but since you are not of the world and I have chosen you out of the world, the world will hate you." For that reason, if we are persecuted such as the Apostles were or thrown into prison, or whatever may be the outcome of it, we maintain our faithfulness.

Q What would happen to you if you didn't go from house to house with the Message of the Kingdom?

A One Scripture which I am not familiar with,—I am familiar with the Scripture but not the exact place, says, "Woe unto me if I preach not the Gospel." So therefore if I have a knowledge of the truth of God's Message of His Theocracy and refuse to preach it, that would mean destruction to me the same as to the religionists.

Q You said you were from the Ambridge Company of Jehovah's Witnesses and you pay a quarter for this book?

A Yes.

Q Now the Ambridge Company, do they meet in a hall regularly?

A Yes, about three times a week, besides other foreign studies.

Q They have certain expenses there, do they not?

A Yes, they do.

Q How do they meet those expenses?

A Well, by means of contributions, voluntary contributions by friends who have an interest in the work and who desire to advance the Kingdom interests.

Q And those who are associated with your Ambridge Company voluntarily contribute the difference between 20c and 25c in order to help defray those local expenses?

A Yes, that is what it is.

Q Did you ever give any books or booklets away?

A Yes, I have given quite a number of them, but not last Sunday.

Q Who do you give them away to?

A To anyone that is of good will and who shows interest enough and promises to read them and are unable to contribute for them; I am willing to give them away to them, because this message is for all persons of good will, and millions of persons of good will throughout the earth are unable and are poor and are unable to contribute, and we realize that and try to make it convenient so they can have a chance to receive it at our expense.

MR. HESSLER: That is all.

The Court:

Q Do you give those bound volumes away?

A I have given away a few of them but not many because I can't really afford it, but I do lend them out.

Mr. Trescher:

Q In other words, your religion teaches you that you are not bound by any laws that men make?

A Pardon me, but I don't have any religion.

Q Oh, you don't?

A No. We as Christians take a definite stand, which is as a Christian, which identifies us from a religionist.

Q And makes you superior to the laws, is that it?

A No, we are not superior to the laws.

Q You are not bound by them?

A Yes, we are bound by them, as long as they don't conflict with God's law.

Q And when they conflict the man-made laws must give way?

A When they conflict it is to our advantage to be faithful to the Most High, that is Jehovah.

MR. TRESCHER: That is all.

Mr. Hessler:

Q You obey all righteous laws, do you not?

A Yes, as long as they don't conflict with God's laws. For instance, those things such as driving, if I have to have a license, I wouldn't try to drive without a license because that doesn't conflict with God's laws.

Q Why didn't you come in and get a permit yesterday?

A For me to apply for a permit from imperfect man created by Jehovah God to preach His Gospel would be an insult to His name.

Mr. Trescher:

Q But you do get a license to drive your car over to preach His Gospel and yet you don't need a license to sell books?

A If you want to put it that way, yes.

Q You draw the line. It is all right to have a license to drive the car to the point of destination where you are going to distribute the book?

A Yes.

Q But when you wish to sell the books you don't need a license for them?

A Pardon me; if you would put it contribute or placing them I would understand you better.

Q On the same theory you don't buy the books, either, you merely make a contribution when you buy the books?

A Yes. If my condition is I am unable to contribute for them I would be able to get them free of cost.

Q But any time you have gotten them from the stock of the company you have either paid for them or been charged with the amount of the contribution and then later paid that?

A Yes.

Mr. Hessler:

Q Your understanding of applying for a permit or license to drive a car is that it is in no manner in conflict with the laws of Almighty God?

A It is not.

Q And the requirements to get a permit to go from house to house to preach the Gospel is a violation of the command of Almighty God?

A Yes, because that is a Theocratic law and that was given by Christ Jesus, who is a Son of Jehovah God and His anointed King. So therefore we receive the command from high to engage in preaching the Gospel, and to ask imperfect man for a permit would be an insult to the Most High.



Mr. Trescher:

Q Suppose you were driving your car in a country community from house to house, would you need a driver's license to preach the Gospel?

A To drive?

Q Yes.

A Yes.

(At this point a recess of five minutes was declared)

(After Recess)

CHARLES SEDERS, one of the defendants, called as a witness in his own behalf and on behalf of his co-defendants, having first been duly sworn, testified as follows:

#### DIRECT EXAMINATION

Mr. Hessler:

Q Mr. Seders, where do you live?

A I live at Weirton, West Virginia.

Q What is your occupation?

A My occupation is an ordained minister of the Gospel, and preaching the Gospel; I go about from house to house preaching the Gospel as Christ Jesus did, as he stated in the Scriptures, preaching the Gospel of God's Kingdom, and I came all the way from West Virginia for I thought I might comfort some of those that is in distress and some of them that mourn and cry for the abomination that is done in Christendom, and I received a kind welcome by landing in jail.

Q Just how do you present this information?

A I use the phonograph, just like all the brothers.

Q Well, you won't have to play that again. Did you play the phonograph yesterday?

A Yes, I started the phonograph record at many homes; not so many, but say eight or ten, and calls were sent in. This fellow that left here, he took a book from me.

Q You mean that Mr. Detruf?

A Yes.

Q What happened when you called at his house?

A I called at his house; his brother, as he stated, answered the door and said he wasn't interested, so I left and went to the next house and I was knocking on the door and he came out of his house, Mr. Detruf, and called to me and asked if I had any books. I said yes. He says, "Can I see one?" I said yes, and I started back to him and met him on the steps and I showed him the Salvation book, which he took from me,—this is one of them right here, the Salvation book,—and I begin to explain to him, I told him there was more than one hundred and fifty different prophetic pictures in this book foretelling all this trouble which is about to befall the world, and I also explained to him in the days of Noah, Noah preached for 120 years of the flood that was coming that was going to destroy the world and the people didn't believe him, like the people today don't believe Jehovah's Witnesses. That is a prophetic picture of Jehovah God, for our learning and understanding upon whom the end of the world shall come. And he says, "I will take the book," and he reached in his pocket and gave me a quarter and I went on to the next house. I started up the street, the same way, in the same manner, and we didn't get to play the record all the way through at any homes. We come to the corner when we finished and started out on another street, worked two or three homes, we came to the last house and was knocking on the door when we saw the cops coming down the hill,—this gentleman right over here, Mr. Kramer, and the other one is not in here, and he came over to the door while we was waiting for the answer and put his hand out on Mr. Mowder and says, "Come on, boys." I said, "Are we under arrest?" He said, "Yes, sir," and put us in the car and brought us down to the police station.

Q Did you have your credential card?

A Yes, sir. (Witness produces card.) My identification card "To Whom It May Concern—"

THE COURT: We don't want that read into the record.

MR. HESSLER: I will just offer that in evidence.

Mr. Hessler:

Q Which one were you using?

A This is the one to read at the door.

Q Has that the same reading on the back?

A No, it has different reading on the back, but I used this for my name and address. They are on all of them.

Q This is the one you were using (indicating)?

A Yes.

(Mr. Hessler lays the card just identified by the witness on the Court's desk.)

Q Now, Mr. Seders, did you give any literature away yesterday?

A I can't say I gave any away in Jeannette. I gave the one with the Salvation away, Government and Peace; I gave it with the Salvation on a contribution of 25c, and that is all the literature I placed while I was over there.

MR. HESSLER: That is all.

### CROSS EXAMINATION

Mr. Trescher:

Q Do you own your phonograph?

A Yes.

Q Who did you buy it from?

A I received it through our Weirton Company of Jehovah's Witnesses direct from the Watch Tower Bible and Tract Society.

Q Did you pay anything for it?

A Yes.

Q How much did you pay?

A Eight dollars.

Q How much did you pay for the books you were carrying yesterday?

A Well, I was carrying yesterday one Salvation and one

Government book,—that is a bound volume,—and I was carrying the Enemies book, and we pay a 25c contribution for each.

Q And you pay that contribution to the Weirton store?

A Yes, I contribute there.

Q And you receive no books unless you do contribute?

A Well, in a case like that, if I don't have the money I do.

Q Do you mean they charge the contribution?

A Yes.

Q And you pay it later?

A Yes.

Q And you give no books unless you get a similar contribution from the person who is taking it?

A Yes, I give away many books. For instance, last month I have placed a total of 37 bound books and I haven't received a contribution for over I will say near half of them.

Q You seem to have a number of these identification cards certifying that you are an ordained minister. From whom do you obtain those cards?

A From the society.

Q Do you get them when you obtain the books?

A Well, yes, we get them before we obtain the books.

Q They are not dated?

A No.

Q You have about a half dozen of them in your pocket?

A I have three I believe.

Q And they bear only the printed signature of one J. T. Rutherford?

A Yes.

Q President of the Watch Tower Bible and Tract Society?

A Yes.

Q Do you have any occupation other than that of being an ordained minister?

A Yes.

Q What is your occupation?

A My occupation is a tin mill worker.

Q How long have you lived in Weirton, West Virginia?

A It will be ten years in May.

Q How long have you been a minister?

A I will say I have been consecrated to the Lord for the last four years.

Q And you say your other occupation is what?

A Tin mill worker.

Q You have been a tin mill worker for how long?

A Ten years in July.

Q Prior to that what did you do?

A Well, I was a kid—you might say then, going to school.

Q Where were you living at that time?

A You mean before?

Q Before you went to work.

A Clarksburg, West Virginia.

Q And did you come to Braddock before you came to Jeannette yesterday?

A Yes, sir.

Q Who sent you to Jeannette?

A I came of my own accord to Jeannette.

Q Did anybody assign you any territory?

A Yes.

Q Who did that?

A I don't know his name either.

Q What is his official position in the society?

A In the society his official position would be a Territory Director or a Servant,—Territory Servant.

Q Did anyone come with you to Jeannette?

A Yes, Mr. Mowder.

Q And were you driving a machine?

A No.

Q Was he driving it?

A No.

Q Mr. Mowder?

A No.

Q Was there someone else driving it?

A Somebody else, yes.

Q Who was that?

A Another brother.

Q Do you know his name?

A I couldn't say exactly, no, what his name is.

Q Just met him in McKeesport, or Braddock rather?

A Yes, I met him in Braddock.

MR. TRESCHER: That is all.

The Court:

Q What time did you come to Jeannette?

A To Jeannette?

Q Yes.

A I arrived here around five o'clock, 4:30 or 5:00 o'clock.

Q You knew that some of your members had been arrested in Jeannette before you got here?

A I heard about the two sisters being arrested.

Q You heard that in Braddock?

A Yes.

Q Then you expected to be arrested when you came here?

A Well, I didn't know. I come,—I thought maybe that it would happen, but it didn't make no difference to me.

Q Did you know that there had been a similar case to this in Jeannette before?

A I didn't know that, no.

Q You didn't know that?

A No.

Q Didn't know that there was a case pending in the court?

A I knew that after I had been arrested.

Q These various cards that you have with you, you use different cards depending upon the type of book that



you are distributing on that particular day?

A That's right.

Q Those cards have a different amount of contribution that is expected for different kinds of books?

A That's right.

THE COURT: That is all.

### REDIRECT EXAMINATION

Mr. Hessler:

Q Did you work any place else yesterday?

A Yesterday?

Q Yes.

A I worked in Braddock yesterday morning.

Q Were you arrested?

A No.

Q Is this the only Sunday you have worked?

A No. I go out every Sunday that I get a chance. If I am not working in the mill I go out.

Q Have you been arrested other places?

A Never was before.

Q Do you use the same method?

A The same method.

MR. HESSLER: That is all.

WILLARD L. MOWDER, one of the defendants, called as a witness in his own behalf and on behalf of his co-defendants, having first been duly sworn, testified as follows:

### DIRECT EXAMINATION

Mr. Hessler:

Q Mr. Mowder, where do you live?

A Virginville, West Virginia.

Q What is your occupation, Mr. Mowder?

A None at all.

Q Why did you come to Jeannette yesterday?

A My main reason was I wanted to get in some kind of work that I learned that Jehovah at sometime or another would make this world a different world, and I like this kind of work very much. That is my reason for coming.

Q You came along with Mr. Seders to see how he acted as a Christian, is that right?

A Yes.

Q And you have a desire to become a Christian?

A Yes.

Q You have a desire to live on this earth and serve Almighty God?

A That's right.

Q In a manner that will be acceptable to Him?

A Yes, sir.

Q And that was your reason for coming with Mr. Seders yesterday?

A Yes, sir.

THE COURT: Are those leading questions?

Mr. Hessler:

Q Were you ever arrested in this work before?

A No, sir.

Q Did you work any place else with Mr. Seders yesterday?

A No, sir.

MR. HESSLER: That is all.

### CROSS EXAMINATION

Mr. Trescher:

Q Are you an ordained minister?

A No, sir.

Q Is this the first time you were ever engaged in this work?

A I have been out in the country, but this is my first time in the city.

Q And on those occasions were you distributing books as well?

A No, sir, we were just playing the phonograph.

Q Did you accept any contributions on those occasions?

A No, sir.

Q You are only eighteen years old now?

A That's right.

Q And you had never been out in any towns before?

A No, sir.

Q Did you know before you came here that some people had been arrested yesterday?

A No, sir.

Q You hadn't learned that before you left Braddock?

A No.

Q Were your parents with you at Braddock?

A No.

Q How did you come from Virginville, West Virginia, to Braddock?

A By bus.

Q Did you come with anyone?

A There was a bus load that was chartered.

Q How many people were in that bus?

A Well, I don't know.

Q Any other members of your family?

A No, sir.

Q You didn't have a victrola and didn't have any books?

A I was just carrying books for Brother Seders here.

Q You say you didn't know that anybody had been arrested?

A No, sir.

Q Are you in school now?

A No, sir.

Q Did anyone tell you that the ordinances of the city require a permit to engage in work of that kind?

A No, sir.

Q They did not?

A No, sir.

MR. TRESCHER: That is all.

REDIRECT EXAMINATION

Mr. Hessler:

Q Did anyone tell you that you didn't need a permit to do this kind of work?

A I never heard of it.

RECROSS EXAMINATION

Mr. Trescher:

Q You didn't accept any money?

A No, sir.

Q Did you hand out the book?

A No, sir.

Q Do you know who else came to Jeannette in the same machine you rode in?

A No, sir.

Q Did anyone other than you and Mr. Seders?

A There was Mr. Seders and a man and a woman.

Q You don't know who the man and the woman were?

A No, sir.

Q Do you know how many Witnesses altogether came to Jeannette yesterday?

A No, I don't.

Q Have you any idea?

A No, sir.

Q Had you solicited any in Braddock before you left there?

A Yes, sir.

Q Who were you with there?

A A sister from Weirton.

Q Your own blood sister?

A No, sir.

Q A member of the Watch Tower Society?

A A member of the Watch Tower Society.

MR. TRESCHER: I think that is all.

The Court:

Q This boy Detruf testified that you carried the satchel and you opened the satchel and handed out the book and he gave the money to Mr. Seders, is that correct?

A No, sir, it is not. I never even touched the book.

Q Were you carrying the satchel?

A Yes, sir.

Q Did you go to Detruf's house with Mr. Seders?

A Yes, sir.

Q You carried the satchel there?

A Yes, sir.

Q Did you engage in the conversation at all?

A I didn't say a word.

Q Who did open the satchel?

A Brother Seders.

THE COURT: That is all.

EARL V. SINGER, a witness called and produced on behalf of the defendants, having first been duly sworn, testified as follows:

#### DIRECT EXAMINATION

Mr. Hessler:

Q What is your full name, Mr. Singer?

A Earl V. Singer.

Q Where do you live?

A East Liverpool, Ohio.

Q What is your occupation?

A I am an ordained minister of Almighty God.

Q Why did you come to Braddock yesterday?

A I came to Braddock to honor the name of Almighty God, to aid people of good will to learn of His purposes, so that they might be the recipients of His blessings.

Q What was going on at Braddock yesterday?

A The Zone No. 9 of Jehovah's Witnesses held an assembly at Braddock.

Q How many were there?

A Oh, approximately a thousand I would say.

Q What was the purpose of their assembling there?

A For the same purpose as I came there.

Q And what was that?

A To honor the name of Almighty God and to take to the people of good will a message of His Kingdom, that they too might become the recipients of His blessings.

Q What communities did you cover yesterday?

A Myself personally?

Q No, the Jehovah's Witnesses.

A We covered Braddock, Homestead, Jeannette, Pittsburgh and others; I just can't name all of them.

Q How many about came to Jeannette?

A One hundred and four.

Q What was the purpose of their coming here?

A To honor the name of Almighty God, to preach the Gospel of His Kingdom to people of good will, that they too might get a knowledge of His purposes and become the recipients of His blessings.

Q Why do Jehovah's Witnesses accept a contribution for literature?

A Jehovah's witnesses accept a contribution for the Watch Tower Bible and Tract Society publications because it aids in the publishing of more books to put in the hands of more truth-hungry persons who are languishing in the prison houses of religious organizations.

Q The statement was made that one of these defendants stated they paid 20c for books and another one said 25c. Why is that?

A The Watch Tower publishes the bound book publications and dispatches them to various companies throughout the entire world, and there is a set contribution on the publication of 20c to companies. In some companies they set up their own,—in the various companies they set up their own various rules and regulations. For instance, in the company I am associated with the company publishers contribute 25c



for the bound book publications. The reason for that is that we have many expenses in connection with our work; we have halls where we assemble for the purpose of studying God's word and invite people of good will to come and assemble with us and it takes money to run; and that difference that is received, the difference between what is received and paid by the company, that is used to defray those expenses, to whatever extent it will cover it: Then other contributions are voluntarily given by the various workers and companies to make up the deficit.

MR. HESSLER: That is all.

### CROSS EXAMINATION

Mr. Treseher:

Q Where do you live, Mr. Singer.

A East Liverpool, Ohio.

Q How do you make a living?

A I am in the trucking business.

Q How many days in the week do you engage in the trucking business?

A At the present none.

Q How long has it been since you have not worked at the trucking business?

A Since January 1st, 1939.

Q Do you have any trucks?

A Yes, sir.

Q Do you have an automobile?

A Yes, sir.

Q Do you have a home?

A Yes, sir.

Q Do you have a bank account?

A Yes, sir.

Q For a little better than a year you have not worked at your regular employment, is that correct?

A Other than, just as we say, keeping a weather eye on the business.

Q By that you mean you have other people in your employ who do the work?

A Yes, sir.

Q And you devote your time to the business of being a minister is that right?

A I devote my time to the work of honoring the name of my God and preaching the Gospel of His Kingdom.

Q Do you go about from door to door or do you direct the activities of the others?

A I go from door to door, just the same as my brothers.

Q You were in Braddock yesterday?

A Yes, sir.

Q Were you there the day before?

A Yes, sir.

Q How long before that had you—

A Pardon me, I will retract that. I was in Pittsburgh the day before. We had an assembly in Pittsburgh the day before. I wasn't in Braddock.

Q How many attended the assembly in Pittsburgh?

A One hundred and sixty-eight.

Q How many the assembly in Braddock?

A Approximately 1000.

Q Did this same group who attended in Pittsburgh on Saturday attend in Braddock on Sunday?

A Well, speaking of that in a general way, I would say yes. I couldn't say as to individuals.

Q Do you have any official position with the society?

A I am an assistant Zone Servant.

Q Do you allot territories to these persons who go out and solicit?

A I have nothing to do with that.

Q Who takes care of that?

A That is done directly through Brooklyn, New York, headquarters.

Q Do you mean to say they know who is going to attend these assemblies and map out the territories?

A They allot the territories to the companies and the

companies have various Servants that hand it out to the individual publishers.

Q Did you have anything to do with mapping out the territories yesterday?

A No, sir.

Q Do you know who did?

A I do.

Q Who?

A Mr. Poor. He is the Territorial Servant.

Q Do you obtain books or tracts from any particular company?

A I obtain my publications direct from headquarters.

Q Do you mean by that you buy directly from New York?

A Brooklyn, yes.

Q Brooklyn, New York?

A Yes.

Q How much do you pay for books?

A You mean the bound books?

Q Yes.

A Our society has set up a system of allowing those people who devote all their time to the work of proclaiming the Kingdom Message, of giving these bound books to them on a contribution of 5c. We take them out and place them with the people,—on the contribution set by the society. That enables those who are preaching the Gospel of God's Kingdom to buy a bite to eat once in awhile.

Q Exactly. So that that book costs you how much?

A That costs me—

Q Five cents?

A If I would get one from the society it would cost me 5c.

Q And when you in turn turn those books over to other solicitors do you charge as much as 20c for it?

A I am not permitted to do that.

Q Do you not have charge of what they call a company?

A No, sir. The only way that that is done,—in other

words, I cannot be a distributor other than going door to door with the publications, that is people who are not associated with the organization.

Q And when you go from door to door the contribution that you expect is 25c?

A The society sets that contribution, yes, sir.

Q Sets that contribution?

A That's right. It is a fund of our society set aside to aid those who give all their time to the Lord's work.

Q And you have been giving all your time for the past year and a quarter anyway?

A Yes, sir.

Q And for that you get the special contribution rate of 5c, and when you exact contributions of the persons who take the books from you, the rate is the standard rate of 25c, is that right?

A I have an automobile, that takes gasoline; I eat. That money I use to eat I get from my business, and not only that but I give many of the bound book publications to the Lord's poor who cannot afford to contribute and get the life-sustaining truths of Almighty God. But in the long run I give more than I receive.

Q And by the prisons of other religions you of course refer to churches?

A Religious organizations, yes, sir.

Q That is, when you say that certain persons are languishing in the prisons of religious organizations you mean that they are members of some church?

A That's right,—not of some church. There is one true church.

Q That is your own?

A No, that is Christ's Church. He is the Head. It is the church of the living God according to Scriptures.

Q And you regard yourself as a member of that religion?

A I regard myself as a member of that church.

MR. TRESCHER: That is all.

DEFENDANTS REST

TESTIMONY CLOSED

MR. HESSLER: Now at this time we would like to state that the testimony of the other defendants is similar to that which has already been given, and on behalf of all the defendants we would like to make the following motion.

The defendants move to dismiss this case and for their discharge upon the following grounds:

That the complaint is invalid and does not state facts sufficient to constitute an offense under the law.

That the ordinance in question is in direct conflict with the Constitution of this State and of the United States, in this: that it restricts the freedom of speech, freedom of press, and freedom of worship of Almighty God.

That the ordinance in question is in direct violation of the Fourteenth Amendment of the Constitution of the United States.

That the evidence by prosecution shows defendants are not guilty.

The defendants therefore pray this Court to dismiss this case and that they be discharged.

I make that motion on behalf of the eight defendants. I will leave with you a copy of the motion.

(Mr. Hessler hands to the Court a copy of the motion just made in each individual case.)

The defendants move to dismiss this case and discharge the defendants on the following grounds:

That upon all the evidence in this case and the law governing the same the prosecution has failed to introduce any evidence whatsoever showing the guilt of the defendants;

That upon all the evidence offered and the law in the case the defendants are not guilty and should be discharged.

**THE COURT:** The ordinance under which these defendants are prosecuted is the hawking and vending ordinance of the City of Jeannette, with which ordinance you are familiar, having previously been furnished a copy of this ordinance. You were also informed and notified that the officials of the City of Jeannette did not object to your distribution of literature and pamphlets so long as you did so free of charge and made no charge for the pamphlets and periodicals which you distributed, but we do object to your violating this ordinance when you sell and solicit contributions for the publications of the Watch Tower people without a license or a permit.

This Irvington case is distinguished by us in this; quoting from the Irvington case it says: "The ordinance in question," that is the Irvington ordinance, "is not limited to those who canvass for private profit; nor is it merely the common type of ordinance requiring some form of registration or license of hawkers, or peddlers."

Our position is that we are still within the constitutional privilege of licensing hawking and peddling and vending and soliciting, and therefore I find the defendants guilty under the evidence and assess them each with a fine of \$50.00 or 30 days in prison.

**MR. HESSLER:** Could we ask you now for the number of the ordinance? Is it No. 60?

**THE COURT:** Yes, that is the ordinance, Ordinance No. 60.

**MR. HESSLER:** We would like to have this victrola marked as part of the record and as part of the evidence, this record P-204 entitled Snare and Racket by Judge Rutherford.



THE COURT: That will all be made part of the record.

MR. HESSLER: We would like to have bail continued. We have bondsmen here.

THE COURT: Put up a bond pending the five day allowance.

MR. HESSLER: We would like to request at this time a certified copy of the ordinance and we would like to have a certified copy of the transcript.

THE COURT: We will get that for you in due time after you perfect your appeal.

MR. HESSLER: We would like to have it before the time of the appeal, in making the appeal, that is a copy of the transcript. We would like to have a copy of the information.

THE COURT: All right, we will try to have it for you within the five day period.

MR. HESSLER: And will you give me a certified copy of the ordinance now?

THE COURT: Yes, the clerk will certify the ordinance.

THE CITY CLERK: Not tonight. I have not got the seal here. I will send it to you. What is your address?

MR. HESSLER: 907 Middle Street, Pittsburgh.

I hereby certify that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me at the foregoing hearing and that this copy is a correct transcript of the same.

(signed) JAMES SHAUGHNESSY  
Official Reporter,  
County Court,  
Pittsburgh, Pennsylvania.

**MEMORANDUM OPINION**

**SUR RULE 58 OF THE RULES OF  
THE SUPERIOR COURT**

**No. 192**

**IN THE COURT OF QUARTER SESSIONS  
WESTMORELAND COUNTY  
FEBRUARY 1940 TERM**

**COMMONWEALTH OF PENNSYLVANIA  
City of Jeannette**

*v.*

**ELLAINE TZANES and ANASTASIA TZANES,  
Defendants**

**March 16, 1942**

**GORDON, JR.**

The appeal in this case was based upon the alleged unconstitutionality of an ordinance of the City of Jeannette requiring the licensing of peddlers and street vendors. The validity of the same ordinance under the Constitution of the United States was involved in the case of *Stewart vs. Commonwealth of Pennsylvania (City of Jeannette)*, 309 U. S. 674, in which the Supreme Court of the United States re-

refused an appeal on March 25, 1940. The constitutionality of a similar ordinance under our State Constitution was also decided by the Superior Court in the case of Pittsburgh vs. Ruffner, 134 Pa. Sup. 192. The questions sought to be raised by the appellants here are, therefore, no longer disputable, and it was for this reason that we refused the appeal.

BY THE COURT:  
JAMES GAY GORDON, JR. (Sgd)  
President Judge,  
Court of Common Pleas No. 2  
First Judicial District,  
Specially Presiding:

## **ORDER**

[Same caption and title as on foregoing  
**MEMORANDUM OPINION** as to No. 192]

2-20-42 APPEAL REFUSED.

J. G. GORDON, JR.  
President Judge,  
Court of Common Pleas No. 2,  
Philadelphia, Specially Presiding.

**MEMORANDUM OPINION**

**SUR RULE 58 OF THE RULES OF  
THE SUPERIOR COURT**

**No. 193**

**IN THE COURT OF QUARTER SESSIONS  
WESTMORELAND COUNTY  
FEBRUARY 1940 TERM**

**COMMONWEALTH OF PENNSYLVANIA  
City of Jeannette**

**v.**

**ANTHONY MALTEZOS, ANNA PERISICH,  
ROBERT LAMBORN, ROBERT MURDOCK, JR.,  
CHARLES SEDERS & WILLARD L. MOWDER**

**March 16, 1942**

**GORDON, JR.**

We refused the appeal in this case for the reasons stated in the memorandum opinion filed by us in the case of Commonwealth of Pennsylvania (City of Jeannette) vs Ellaine Tzanes and Anastasia Tzanes; February Term, 1940, No. 192.

**BY THE COURT:**

**JAMES GAY GORDON, JR. (Sgd)  
President Judge,  
Court of Common Pleas No. 2,  
First Judicial District,  
Specially Presiding.**

**ORDER**

[Same caption and title as on foregoing  
MEMORANDUM OPINION as to No. 193]

2-20-42 APPEAL REFUSED

J. G. GORDON, JR.  
President Judge,  
Court of Common Pleas No. 2,  
Philadelphia, Specially Presiding.

[fol. 113]

## ASSIGNMENTS OF ERROR

## First

The court below committed reversible error and abused its discretion in refusing to grant each appellant's petition for appeal from said 'summary conviction' because it plainly appears that the ordinance does not apply to their activity of preaching the gospel as described in the evidence and petition for appeal; therefore Jeannette ordinance No. 60 has been construed and applied so as to deny and deprive each appellant of his freedom to worship ALMIGHTY GOD as by Him commanded in the Bible and according to appellant's conscience, all contrary to the Constitution of the Commonwealth and to Section 1 of the Fourteenth Amendment to the United States Constitution.

(Petition for appeal in No. 192, grounds fourth, eighth and ninth, R. pp. 5a, 6a)

(Order of Court, R. p. 110a:)

"2-20-42. Appeal Refused. J. G. Gordon, Jr., President Judge, Court of Common Pleas No. 2, Philadelphia, Specially Presiding."

(Petition for appeal in No. 193, grounds fourth, eighth and ninth, R. pp. 17a, 18a)

(Order of Court, R. p. 112a:)

"2-20-42. Appeal Refused. J. G. Gordon, Jr., President Judge, Court of Common Pleas No. 2, Philadelphia, Specially Presiding."

## Second

The court below committed reversible error and abused its discretion in refusing to grant each appellant's petition for appeal from said 'summary conviction' because it plainly appears that they were engaged in press activity [fol. 114] and therefore Jeannette ordinance No. 60 has been construed and applied so as to constitute a *direct burden* upon distribution and thus violate appellants' right of freedom of the press contrary to the Constitution of the Commonwealth and to Section 1 of the Fourteenth Amendment to the United States Constitution.



(Petition for appeal in No. 192, grounds fourth, eighth and ninth, R. pp. 5a, 6a)

(Order of Court, R. p. 110a:)

"2-20-42. Appeal Refused. J. G. Gordon, Jr., President Judge, Court of Common Pleas No. 2, Philadelphia, Specially Presiding."

(Petition for appeal in No. 193, grounds fourth, eighth and ninth, R. pp. 17a, 18a)

(Order of Court, R. p. 112a:)

"2-20-42. Appeal Refused. J. G. Gordon, Jr., President Judge, Court of Common Pleas No. 2, Philadelphia, Specially Presiding."

(The above assignments of error were filed in the case of Commonwealth v. Murdock, No. 1, April Term, 1943, and like assignments of error were filed in the other seven (7) appeals set forth on the cover of this Record.)

[fol. 115] IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 346

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT MURDOCK, JR., Appellant.

No. 1 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANNA PERISICH, Appellant.

No. 2 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

WILLARD L. MOWDER, Appellant.

No. 3 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

CHARLES SEDERS, Appellant.

No. 4 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT LAMBORN, Appellant.

No. 5 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANTHONY MALTEZOS, Appellant.

No. 6 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANASTASIA TZANES, Appellant.

No. 7 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ELAINE TZANES, Appellant

No. 8 April Term, 1943

Appeals by defendants from the orders of the Court of Quarter Sessions of Westmoreland County, to Nos. 193 and 192 February Term 1940, respectively.

No. 346

Opinion by Keller, P. J.

[Filed July 23, 1942]

These eight appeals were taken from orders of the Court [fol. 116] of Quarter Sessions of Westmoreland County refusing to allow appeals from judgments and sentences imposed by the mayor of the City of Jeannette on summary

convictions for violations of ordinance No. 60 of said city, duly enacted March 21, 1898. This ordinance forbids the sale of goods, wares, and merchandise of any kind within said city, by canvassing or soliciting, unless the person so canvassing or soliciting has first procured a license to transact said business, and paid the license fee required.<sup>1</sup>

The Constitution of Pennsylvania (Art. V, sec. 14) provides for an appeal in cases of summary conviction "to such court of record as may be prescribed by law, *upon allowance of the appellate court or judge thereof upon cause shown*". (Italics ours) In carrying this provision of the Constitution into effect, the General Assembly passed the Act of April 17, 1876, P. L. 29, which authorized appeals from summary convictions to the *court of quarter sessions* of the county in which the magistrate, etc., resided, within five days, *upon allowance by said court or any judge thereof, upon cause shown*.

Under our law, therefore, an appeal does not lie from a judgment on summary conviction, as of course. The appellant must first show cause for the appeal to a judge of the court of quarter sessions<sup>2</sup> and secure his *allowance* of the appeal.

These appellants were arrested on complaints charging them with having violated said ordinance in unlawfully soliciting the sale of, and in selling, certain books and pamphlets, from door to door, in the City of Jeannette, without obtaining a license, as provided in said ordinance. A hearing was had before the mayor of the city and notes of the testimony at the hearing were taken in shorthand and transcribed. They form part of the record considered by the court below and sent up on appeal.

The testimony establishes that all of the defendants—these appellants—went about from door to door in the City of Jeannette soliciting people in their homes, etc., to purchase, and selling, two books entitled 'Salvation' and 'Creation' respectively, and certain leaflets or pamphlets, all published by the Watch Tower Bible and Tract Society of Brooklyn, N. Y., for which the Society fixed twenty-five

<sup>1</sup> For one day, \$1.50; for one week, \$7; for two weeks, \$12; for three weeks, \$20.

<sup>2</sup> In Allegheny County, of the County Court. Act of May 5, 1911, P. L. 198, sec. 6(c).

cents each as the price for the books and five cents each as the price of the leaflets. Defendants paid twenty cents each for the books, unless they devoted their whole time to the work, in which case they paid five cents each for the books they sold at twenty-five cents. Some of the witnesses spoke of 'contributions' but the evidence justified a finding that they sold the books and pamphlets. As a preliminary to the sale, they brought with them a phonograph—which they [fol. 117] purchased from the Watch Tower Bible and Tract Society—on which they played a record, purchased from the same society, in which every other religion but their own was denounced as a 'snare and a racket'. The testimony of the defendants themselves warranted a finding that they had sold these books and pamphlets for money, and that they had not applied for or procured a license to do so as provided, by ordinance No. 60. Their defense was that they were members of a sect, calling themselves 'Jehovah's witnesses', and that it was against their religious convictions to apply for such a license, and that any prosecution against them for violating the provisions of the ordinance requiring such a license was an infringement of their rights under the Constitution of the United States and the Constitution of Pennsylvania, and a restriction of the rights of freedom of worship, freedom of speech, and freedom of the press, secured to them by said Constitutions, and in direct violation of the 14th Amendment to the Constitution of the United States.

After a full hearing, covering eighty printed pages of testimony, the Mayor found all of the defendants guilty and imposed upon each of them a fine within the limit fixed by the ordinance, in default of payment of which they would be committed to the county prison.

Within five days they applied by petition to the court of quarter sessions for an appeal, which was refused by Judge Gordon, President Judge of Common Pleas No. 2 of Philadelphia County, specially presiding, his reasons therefor being set forth as follows: "The appeal in this case was based upon the alleged unconstitutionality of an ordinance of the City of Jeannette requiring the licensing of peddlers and street vendors. The validity of the same ordinance under the Constitution of the United States was involved in the case of *Stewart vs. Commonwealth of Pennsylvania (City of Jeannette)*, 309 U. S. 674 [petition for certiorari from the judgment of the Superior Court of Pennsylvania

*In Com. v. Stewart, et al.*, 137 Pa. Superior Ct. 445, 9 A 2d 149. Appeal refused by Supreme Court of Pennsylvania, December 8, 1939, 137 Pa. Superior Ct. XXXIII, in which the Supreme Court of the United States refused an appeal on March 25, 1940. The constitutionality of a similar ordinance under our State Constitution was also decided by the Superior Court in the case of *Pittsburgh v. Ruffner*, 134 Pa. Superior Ct. 192, [4 A]2d 224. The questions sought to be raised by the appellants here are, therefore, no longer disputable, and it was for this reason that we refused the appeal.

The case of *Pittsburgh v. Ruffner*, 134 Pa. Superior Ct. 192, 4 A. 2d 224—appeal refused by the Supreme Court of Pennsylvania on March 17, 1939, 134 Pa. Superior Ct. XXXIII—was concerned with a somewhat similar ordinance of the City of Pittsburgh, in which the same constitutional defense was presented as in this case. On the argument of that case it developed that the appeal had not been taken within the time limited for appeals by our statute on the subject, and would have to be quashed. But counsel for the appellant—who was also a member of the Jehovah's witnesses sect—was so insistent in asking a decision on the merits, in order that it might govern the disposition of similar cases, that we complied with his request and fully discussed the case on its merits and ruled that such an ordinance, if nondiscriminatory and not unreasonable, was not in violation of the constitutional rights of freedom of worship and freedom of the press secured by our State Constitution and by the Federal Constitution as enlarged by the 14th Amendment.

We said, *inter alia*:

[1st 118] "I. The ordinance in question cannot, by any stretch of the imagination, be held to be directed against freedom of worship. It is concerned with hawking and peddling merchandise, and with selling merchandise from house to house and in buildings. It does not discriminate against non-residents, nor is it limited to any particular kind of merchandise. This appellant is perfectly free to worship God according to the dictates of his own conscience, separately or with his family and co-religionists, in his home or theirs, and in church, chapel, assembly or other gathering place. The constitutional right of freedom of worship does not guarantee anybody the right to



sell anything from house to house or in buildings, belonging to, or in the occupancy of, other persons.

"H. Nor does the ordinance unlawfully infringe upon the constitutional right of freedom of the press. This appellant may, notwithstanding this ordinance, freely print and communicate his thoughts and opinions and may *freely speak*, write and print on any subject, 'being responsible for the abuse of that liberty', and he may, subject to reasonable regulation, *freely distribute* the same, but that furnishes no warrant for upholding his *unlimited and unrestricted* right to enter the homes and offices of others to *sell* to them the books and pamphlets he may have written or books and pamphlets expressive of his thoughts and opinions." The case of *Loyell v. Griffin*, 303 U. S. 444, on which appellant relies, declares no such doctrine. \* \* \*

"The present ordinance relates only to the hawking and peddling of merchandise and the *selling* of goods and merchandise from house to house, or in buildings within the City limits. \* \* \* The ordinance is general and covers the sale of books and printed matter no less than other merchandise. Despite the earnest arguments of appellant's counsel we are not convinced that freedom of the press carries with it freedom from all regulation of sales of printed matter; we do not accede to his contention on the oral argument that the federal decisions relied upon by him go so far as to rule that the constitutional guaranty of a free press forbids dealers in books and printed matter being subjected to our State mercantile license tax or the federal income tax as to such sales, along with dealers in other merchandise."

"We have several times since approved the legal propositions enunciated in that case.<sup>3</sup>

Later, in *Com. v. Reid*, 144 Pa. Superior Ct. 569, 575, 20 A. 2d 841, we distinguished that case from *Pittsburgh v. Rutkner*, supra, and refused to uphold an ordinance of the Borough of Clearfield, when it was sought to be used to prevent members of Jehovah's witnesses from selling

<sup>3</sup> See *Com. v. Stewart*, 137 Pa. Superior Ct. 445, 446, 9 A. 2d 179; *Com. v. Palms*, 141 Pa. Superior Ct. 430, 440, 15 A. 2d 481; *Com. v. Hessler*, 141 Pa. Superior Ct. 421, 15 A. 2d 486; *Com. v. Reid*, 144 Pa. Superior Ct. 569, 575-6, 20 A. 2d 841.

on the streets of the borough certain weekly publications of the Watch Tower Bible and Tract Society, known as 'The Watch Tower' and 'Consolation', publications somewhat along the lines of the Salvation Army's 'War Cry'.

Since the submission of the present case to this court, the Supreme Court of the United States has decided three cases, dealing with the same questions involved in the present appeals, to-wit, *Jones v. City of Opelika* (280 October Term 1941); *Bowden, et al. v. City of Fort Smith* (314 October Term 1941); and *Jobin v. State of Arizona* (366 October [fol. 119] Term 1941), reported in — U. S. —, [62] S. Ct. [1231].

The facts in the cases of *Bowden, et al. v. City of Fort Smith* and *Jobin v. State of Arizona* are so similar to those in the appeals before us, and the discussion of Mr. Justice Reed in holding that similar ordinances of the City of Fort Smith, Arkansas, and City of Casa Grande, Arizona, were not violative of the rights—whether of freedom of worship, freedom of speech, or freedom of the press—of the sectarians calling themselves 'Jehovah's witnesses', is so appropriate to our cases, that we need do little more than cite it as determinative of the federal constitutional questions raised by the appellants. Mr. Justice Reed said, *inter alia*, "There is to be noted, too, a distinction between nondiscriminatory regulation of operations which are incidental to the exercise of religion or the freedom of speech or the press and those which are imposed upon the religious rite itself or the unimixed dissemination of information. Casual reflection verifies the suggestion that both teachers and preachers need to receive support for themselves as well as alms and benefactions for charity and the spread of knowledge. But when, as in these cases, the practitioners of these noble callings choose to utilize the vending of their religious books and tracts as a source of funds; the financial aspects of their transactions need not be wholly disregarded. To subject any religious or didactic group to a reasonable fee for their money-making activities does not require a finding that the licensed acts are purely commercial. A book agent cannot escape a licensé requirement by a plea that it is a tax on knowledge. It would hardly be contended that the publication of newspapers is not subject to the usual government fiscal exactions, *Giragi v. Moore*, 301 U. S. 670; 48 Ariz. 33, 49 Ariz. 74, or the obligations placed by statutes on other business. *Associated Press v.*



Labor Board, 301 U. S. 103, 130 \* \* \*. When proponents of religious or social theories use the ordinary commercial methods of sales of articles to raise propaganda funds, it is a natural and proper exercise of the power of the state to charge reasonable fees for the privilege of canvassing. Careful as we may and should be to protect the freedoms safeguarded by the Bill of Rights, it is difficult to see in such enactments a shadow of prohibition of the exercise of religion or of abridgement of the freedom of speech or the press. It is prohibition and unjustifiable abridgement which is interdicted, not taxation. Nor do we believe it can be fairly said that because such proper charges may be expanded into unjustifiable abridgements they are therefore invalid on their face. The freedoms claimed by those seeking relief here are guaranteed against abridgement by the Fourteenth Amendment. Its commands protect their rights. The legislative power of municipalities must yield when abridgement is shown. Compare *Grosjean v. American Press Co.*, 297 U. S. 233, with *Grangi v. Moore*, 301 U. S. 670. If we were to assume, as is here argued, that the licensed activities involve religious rites, a different question would be presented. These are not taxes on free will offerings. But it is because we view these sales as partaking more of commercial than religious or educational transactions that we find the ordinances, as here presented, valid \* \* \*. In the ordinances of Casa Grande and Fort Smith, we have no discretionary power in the public authorities to refuse a license to any one desirous of selling religious literature. No censorship of the material which enters into the books or papers is authorized. No religious symbolism is involved such as was urged against the flag salute in *Minersville District v. Gobitis*, 310 U. S. 586. For us there is no occasion to apply here the principles taught by that opinion. Nothing more is asked from one group than from another which uses similar methods of propagation. We see nothing in the collection of a nondiscriminatory license fee, uncontested in amount, from those selling [fol. 120] books or papers, which abridges the freedoms of worship, speech or press. Cf. *Grosjean v. American Press Co.*, 297 U. S. 233, 250. As to the claim that even small license charges, if valid, will impose upon the itinerant colporteur a crushing aggregate, it is plain that if each single fee is, as we assume, commensurate with the activities licensed, then though the accumulation of fees from city to

city may in time bulk large, he will have enjoyed a comparatively enlarged field of distribution. Cf. *Coverdale v. Pipe Line Co.*, 303 U. S. 604, 612-613. The First Amendment does not require a subsidy in the form of fiscal exemption. *Giragi v. Moore*, *supra*. Accordingly the challenge to the Fort Smith and Casa Grande ordinances falls."

We think it proper to point out, however, that the ordinance here involved is forty-four years old. It was enacted long before co-religionists of these appellants assumed the name, 'Jehovah's witnesses,' or announced their refusal to obey secular laws. It is nondiscriminatory and there is no averment that it is oppressive. It has not been enforced so as to prevent appellants from freely selling, without license, their pamphlets and weekly publications on the streets (see *Com. v. Reid*, *supra*), but only as respects canvassing, soliciting and sales from door to door and house to house. It is within the express grant of municipal power and authority contained in the Third Class City Act of June 23, 1931, P. L. 932, Art. XXVI, sec. 2601, and its amendments, 53 PS ss. 2198-2601, and the prior acts regulating third class cities and boroughs.

The orders are severally affirmed, and it is ordered that the appellants appear in the court below at such time as may be fixed by that court and that they be severally committed until they have complied with their respective sentences or so much thereof as have not been performed.

[Filed July 23, 1942.]

[fol. 121] JUDGMENTS OF THE SUPERIOR COURT OF PENNSYLVANIA

No. 1 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA, CITY OF JEANNETTE

v.

ROBERT MURDOCK, JR., et al.

Appeal of Robert Murdock, Jr.

July 23, 1943.

The order is affirmed, and it is ordered that the appellant appear in the court below at such time as may be fixed by

that court and that he be committed until he has complied with his sentence or so much thereof as has not been performed.

Keller, P.J.

No. 2 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA, CIT OF JEANNETTE

v.

ANNA PENSEIK, et al.

Appeal of Anna Penseik

July 23, 1943.

The order is affirmed, and it is ordered that the appellant appear in the court below at such time as may be fixed by that court and that she be committed until she has complied with her sentence or so much thereof as has not been performed.

Keller, P.J.

No. 3 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA, CITY OF JEANNETTE

v.

W. L. MOUDER, et al.

Appeal of W. L. Moudor

July 23, 1943.

The order is affirmed, and it is ordered that the appellant appear in the court below at such time as may be fixed by that court and that he be committed until he has complied with his sentence or so much thereof as has not been performed.

Keller, P.J.

No. 4 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA, CITY OF JEANNETTE

v.

CHARLES S. SEBERS, et al.

Appeal of Charles S. Seders

July 23, 1942.

The order is affirmed, and it is ordered that the appellant appear in the court below at such time as may be fixed by that court and that he be committed until he has complied with his sentence or so much thereof as has not been performed.

Keller, P.J.

No. 5 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA, CITY OF JEANNETTE

v.

ROBERT LAMBORNE et al.

Appeal of Robert Lamborne

July 23, 1942.

The order is affirmed, and it is ordered that the appellant appear in the court below at such time as may be fixed by that court and that he be committed until he has complied with his sentence or so much thereof as has not been performed.

Keller, P.J.

[fol. 122]

No. 6 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA, CITY OF JEANNETTE

v.

ANTHONY MALTEZAS, et al

Appeal of Anthony Maltezas

July 23, 1942.

The order is affirmed, and it is ordered that the appellant appear in the court below at such time as may be fixed by

that court and that he be committed until he has complied with his sentence or so much thereof as has not been performed.

Keller, P.J.

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No. 7 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA, CITY OF JEANNETTE

v.

ANASTASIA TZANES, et al.

Appeal of Anastasia Tzanes

July 23, 1943.

The order is affirmed, and it is ordered that the appellant appear in the court below at such time as may be fixed by that court and that she be committed until she has complied with her sentence or so much thereof as has not been performed.

Keller, P.J.

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No. 8 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA, CITY OF JEANNETTE

v.

ELLAINE TZANES, et al.

Appeal of Ellaine Tzanes

July 23, 1942.

The order is affirmed, and it is ordered that the appellant appear in the court below at such time as may be fixed by that court and that she be committed until she has complied with her sentence or so much thereof as has not been performed.

Keller, P.J.

[fol. 123] SUPREME COURT OF PENNSYLVANIA, WESTERN  
DISTRICT

No. 1222 a Miscellaneous Docket

IN THE SUPERIOR COURT OF PENNSYLVANIA, APRIL TERM, 1943

No. 1

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT MURDOCK, JR., Appellant

Petition for Appeal from the Judgment of Superior Court

[fol. 124] To the Honorable Justices of the Supreme Court:

The above named petitioner respectfully represents:

1. On February 25, 1940 petitioner, one of Jehovah's witnesses, was duly exercising the constitutional right of preaching the gospel of God's Kingdom from door to door within the City of Jeannette by means of distribution of Bible literature. From some recipients of such literature distributed petitioner accepted money contributions. On February 25, 1940 petitioner was arrested, while going from house to house, and charged with a violation of Ordinance No. 60 of the City of Jeannette which prohibited peddling within the city without a license for which the required daily fee was \$10.\*

\* ORDINANCE NO. 60: An ordinance regulating the canvassing for or soliciting of orders for goods, paintings, pictures, wares or merchandise of any kind within the Borough of Jeannette, and the delivery of such articles under orders so obtained or solicited and requiring all person or persons so engaged in canvassing, soliciting or delivering, to first procure from the Burgess a license to transact said business and also regulating the hawking, vending of fruits and other merchandise upon the streets by public outcry or by solicitation and requiring all person or persons thus engaged to first obtain a license from the Burgess.

Be it ordained and enacted by the Borough of Jeannette in Council assembled and it is hereby ordained and enacted by the authority of the same.



[fol. 125] Section 1 was not applied because petitioner was not soliciting or canvassing for orders or future delivery of goods, etc., but was actually delivering goods at the time to householder. Although no license was applied for or obtained petitioner was prosecuted under Section 2 of said ordinance which required a daily license at fee of \$10.

SECTION 1. That all persons canvassing for or soliciting within said Borough, orders for goods, paintings, pictures, wares, or merchandise of any kind, or persons delivering such articles under orders so obtained or solicited, shall be required to procure from the Burgess a license to transact said business and shall pay to the Treasurer of said Borough therefor the following sums according to the time for which said license shall be granted.

For one day \$1.50, for one week seven dollars (\$7.00), for two weeks twelve dollars (\$12.00), for three weeks twenty dollars (\$20.00) provided that the provisions of this ordinance shall not apply to persons selling by sample to manufacturers or licensed merchants or dealers doing business in said Borough of Jeannette.

SECTION 2. That all persons huckstering, peddling or selling fruits, goods or other merchandise upon the streets of said Borough by outcry or solicitation of the people upon the streets or thoroughfares of said Borough shall be required to procure from the Burgess a license to transact said business and shall pay to the Treasurer of said Borough therefor the sum of ten dollars (\$10.00) per day. Any person or persons failing to obtain a license as required by this ordinance shall upon conviction before the Burgess or Justice of the Peace of said Borough forfeit and pay a fine not exceeding one hundred dollars (\$100.00) nor less than the amount required for the license for such person or persons together with costs of suit, and in default of payment thereof, the defendant or defendants may be sentenced and committed to the Borough lock-up, for a period not exceeding five (5) days or to the County Jail for a period not exceeding thirty (30) days.

Adopted by the Town Council of the Borough of Jeannette this 21st day of March, A. D. 1898.

D. E. Carle, President of Council.

Attest: Geo. S. Kirk, Secretary.

2. On February 26, 1940 petitioner and seven companions, each being one of Jehovah's witnesses, were jointly tried before the Mayor's Court of Jeannette under the aforesaid ordinance. Petitioner was adjudged guilty as charged and a fine of \$50 was assessed or in default of payment thereof petitioner was ordered committed to the county [fol. 126] prison for 30 days. On March 1, 1940 petitioner duly petitioned in writing to the Court of Quarter Sessions of Westmoreland County in the time and manner required by law for an order allowing appeal from said "summary conviction". The case was duly docketed as No. 193 (or 192) February Term 1940 of that court. Upon presentation of said petition for appeal Judge Keenan ordered that said petitions be taken under advisement pending the outcome of other cases then on appeal to the Superior Court. Petitioner's application for appeal was continued from term to term without an order of disposition being made thereon. On February 20, 1942, Judge Gordon of the Philadelphia Court of Common Pleas No. 2, specially presiding, duly considered said petition for appeal, together with all exhibits attached, and thereupon rendered and entered an order refusing the petition for appeal. (Pages 110a and 112a). The reasons assigned by the Quarter Sessions Court for refusal of said petition were:

"The appeal in this case was based upon the alleged unconstitutionality of an ordinance of the City of Jeannette requiring the licensing of peddlers and street vendors. The validity of the same ordinance under the Constitution of the United States was involved in the case of *Stewart vs. Commonwealth of Pennsylvania (City of Jeannette)*, 309 U. S. 674, in which the Supreme Court of the United States refused an appeal on March 25, 1940. The constitutionality of a similar ordinance under our State Constitution was also decided by the Superior Court in the case of *Pittsburgh vs. Ruffner*, 134 Pa. Sup. 192. The questions sought to be raised by the appellants here are, therefore, no longer disputable, and it was for this reason that we refused the appeal." [Foregoing as to refusal of petitioner's appeal.]

[fol. 127] 3. Thereafter petitioner duly took an appeal to the Superior Court in the manner required by law. On March 12, 1942 petitioner's affidavit was presented and filed with the Superior Court and writ issued to the Court of

Quarter Sessions and the case was returned April 13, 1942 to the April 1942 term of the Superior Court at Pittsburgh. The record, paper book, was duly printed and filed in the Superior Court containing a full report of all proceedings below. The petitioner duly filed a brief and argument in support of the appeal contending that the ordinance did not properly apply when rightly construed, and if construed so as to apply was unconstitutional because denying petitioner's constitutional rights of freedom of speech, press and worship of Almighty God. (Brief, pp. 13-63) Petitioner's brief filed in the Superior Court accompanies this petition for appeal. See also the Assignments of Error filed in the Superior Court attached hereto as Appendix A.

4. Thereafter the Superior Court on July 23, 1942, filed an opinion overruling the contentions urged by petitioner and held the ordinance to be constitutional as applied to petitioner and that petitioner's rights of freedom of speech, press, worship and conscience were not violated. The decision of the Superior Court is based on the authority of *Pittsburgh v. Ruffner*, 134 Pa. S. C. 192, *Commonwealth v. Stewart*, 137 Pa. S. C. 445, and the recent opinion of the United States Supreme Court in *Jones v. Opelika*, 62 S. Ct. 1231, decided June 8, 1942. In that case a petition for rehearing is now pending. On the strong dissenting opinions filed by Chief Justice Stone and three associate justices, and the briefs, it is expected the decision will be overruled.

5. The cases of *Pittsburgh v. Ruffner*, supra, and *Jones v. Opelika*, supra, are distinguishable from the case at bar [fol. 128] in that primarily there is here presented the question of proper construction of the ordinance. It was passed in 1898 and was not designed to cover this type of activity, i. e., preaching the gospel by distribution of literature from house to house. Such ordinances have been construed so as not to cover this activity. See *People v. Finkelstein*, 9 N. Y. S. 2d 941; *Semansky v. Stark*, 196 La. 307, 199 S. 129; *Shreveport v. Teague*, 8 S. 2d 640; *State v. Meredith*, 197 S. C. 351, 15 S. E. 2d 678; *Thomas v. Atlanta*, 59 Ga. App. 526, 1 S. E. 2d 598; *Cincinnati v. Mosier*, 61 Ohio App. 81, 22 N. E. 2d 418; *State ex rel. Hough v. Woodruff*, 147 Fla. 299, 2 S. 2d 577. Therefore the question if considered eliminates the constitutional question considered by the Superior Court. It is the duty of an appellate court where

a constitutional question is presented first to consider the proper construction of a statute. If the statute or ordinance can be construed so as to avoid consideration of the constitutional question, it should first consider the question of proper construction. The Superior Court did not consider the proper construction of the ordinance as to whether it properly applied to petitioner.

6. Also, *Pittsburgh v. Ruffner*, *supra*, and *Jones v. Opelika*, *supra*, are distinguishable from the case at bar on the constitutional question in this, to wit, the ordinance provides an excessive and exorbitant fee of \$10 per day which is unreasonable and prohibitive as to exercise of constitutional right to distribute literature from house to house and is a prohibitive burden. The Superior Court mistakenly says (footnote 1) that the fees provided for were \$1.50 per day, \$7.00 per week, \$12.00 for two weeks and \$20 for three weeks. It is to be noticed that these are the fees charged for canvassing and soliciting for future delivery of goods, provided for in Section 1 of the ordinance. Section 1 does not apply here. Section 2 applies and requires payment of \$10 per day. This is an excessive and prohibitive burden. The testimony shows that petitioner was not engaged in this activity as a means of a livelihood but had other means of support. The activity is not commercial and is charitable, benevolent work of doing good in the public interest. The record here presents an ordinance and case squarely within the exceptions announced by the majority opinion in *Jones v. Opelika*, *supra*.

7. The Bill of Rights of the Constitution of Pennsylvania is much stronger than the Fourteenth Amendment of the United States Constitution making the First Amendment applicable to the States. The case of *Jones v. Opelika*, *supra*, is not binding in this case. Had the decision been the other way it would be binding because the Supreme Court would then be upholding a civil right which all states would be bound to recognize. Whereas since the United States Supreme Court merely held that a right could not be guaranteed under the general due process clause it is not in point in Pennsylvania where the more explicit and stronger constitutional provisions of guarantee are to be found. Under the case of *Esie Ry. Co. v. Tompkins*, 304 U.S. 64, this Court must look to its own Commonwealth's guarantee and constitutional mandate and

grant the rights and privileges therein guaranteed to the people in spite of the weaknesses found in the Federal Constitution as construed by the present Supreme Court of the United States. Further, even though the issues in this case were found to be identical with those in *Jones v. Opelika*, supra, this Court would not be bound to follow the decision of the United States Supreme Court because the granting of the rights sought in this case is not inconsistent with the United States Constitution. On the other hand, the granting of the right is not only consistent with the Pennsylvania Constitution, but the Commonwealth's Constitution says that the right shall not be denied. The position contended for by petitioner here has been directly supported by the Supreme Court of Kansas in its opinion filed July 11, 1942 in *State v. Smith and Griggsby*, — P. 2d —, where the State court of last resort refused to follow the rule laid down by the United States Supreme Court in the *Gobitis* (310 U. S. 586) flag-salute case, because of the stronger injunctions contained in the Kansas Constitution. Printed slip opinion in that Kansas case accompanies this petition. We say that the permitting of the application of the ordinance here in question to activity of petitioner is identically the same which caused the American Revolution and rebellion against tyranny imposed under the "Stamp Taxes" or "Taxes on Knowledge". To convert a misapplied peddler's license law into a modern-day *stamp tax* is equivalent to imposing a burden of "censorship" and absolute prohibition. If the Federal Constitution is too weak to protect inherent rights and does not contain sufficiently explicit provisions against the dangers from which the forefathers fled, then we now turn and appeal to this august Court to throw up as a barrage the stronger and more definite provisions of the Constitution of this Commonwealth as a last bulwark of liberty for the people in lieu of the weaker Federal compact.

8. Upon the petition for appeal duly presented to the Court of Quarter Sessions, and upon the record and application made to the Superior Court, facts and circumstances were shown that the courts below abused their discretion in refusing to allow the appeal prayed for because the petitioner has been denied constitutional rights.

[fol. 131] 9. We submit that on the basis of the petition for appeal duly presented to the Quarter Sessions Court



of Westmoreland County, the printed record, paper book, assignments of error duly filed in the Superior Court and the "Brief for Appellants" duly filed in that Court, and by virtue of this application, there is now presented to this Court as ground for allowance of appeal the following questions:

(A) Do the terms "peddling" and "selling fruit and other merchandise" of the ordinance when properly construed cover activity of petitioner; i. e., when construed so as to make it consistent with the Constitution as to petitioner's right to preach from house to house by means of distributing written or printed sermons while receiving money contributions to aid such work?

Answer: "No."

(B) Does the term "merchandise" of the ordinance include books and literature containing information and opinion when properly construed so as to make it consistent with the Constitution?

Answer: "No."

(C) Does the ordinance as construed and applied by the courts below deny and abridge or burden petitioner's rights of freedom of speech, press and worship, contrary to the Constitution of the Commonwealth of Pennsylvania?

Answer: "Yes."

(D) Does the ordinance as construed and applied by the courts below deny and abridge or burden petitioner's rights of freedom of speech, press and worship, contrary to the First and Fourteenth Amendments to the United States Constitution?

Answer: "Yes."

19. The opinion of the Superior Court is attached hereto and marked Appendix B.

[fol. 132] 11. The opinion of the Court of Quarter Sessions in refusing the appeal is set forth in full at page 3, supra, paragraph 2 of this application.

12. Printed slip opinion of the United States Supreme Court, containing also the three dissenting opinions, in *Jones v. Opelika*, 62 S. Ct. 1231-1251, accompanies this application.

13. The decision of the Superior Court conflicts with its earlier decision involving activity of Jehovah's witnesses,



See *Commonwealth v. Reid*, 20 A. 2d 841, — S. C. —, decided June 30, 1941. It also conflicts with the decision of the United States District Court for the Western District of Pennsylvania (*Douglas v. City of Jeannette*, 39 F. Supp. 32) where this identical ordinance was declared invalid and its enforcement enjoined as applied to Jehovah's witnesses. The decision of the Superior Court also conflicts with *Reid v. Brookville*, 39 F. Supp. 30, and also with *State v. Greaves*, 112 Vt. 222, 22 A. 2d 497; *City of Blue Island v. Kozul*, 379 Ill. 511, 41 N. E. 2d 545; *Village of South Holland v. Stein*, 373 Ill. 472, 26 N. E. 2d 868; *McConkey v. City of Fredericksburg*, 179 Va. 556, 19 S. E. 2d 682; *Borchert v. City of Ranger*, 42 F. Supp. 577; *Hough v. Woodruff*, 147 Fla. 299, 2 S. 2d 577; *Ex parte Walrod*, 120 P. 2d 783; *Ex parte Winnett*, 121 P. 2d 312; *Zimmermann v. London*, 38 F. Supp. 582; *Donley v. City of Colorado Springs*, 40 F. Supp. 15; *People v. Banks*, 6 N. Y. S. 2d 41.

14. Printed copy of the record, i. e., paper book, filed in the Superior Court, and a printed copy of Brief for Appellants accompany this petition, together with a printed copy (slip opinion) of each of the opinions herein mentioned from other jurisdictions, each of which opinions is marked as to reference thereto in paragraph of this petition.

15. Petitioner also presents herewith separate typewrit- [fol. 133] ten memorandum of law in support of the petition for allowance of appeal which is requested to be read and considered in connection with this petition in addition to the documents and decisions hereinbefore mentioned.

16. The Superior Court of Pennsylvania erred in considering the questions presented and so far departed from the regular course of judicial proceedings as to require the exercise of this Court's power of supervision so as to halt the same. That court's errors in this case seriously injure and aggrieve the petitioner. That good cause is herein shown why this Court should allow the petition for appeal here presented. It is manifest that the courts below abused their discretion in denying the appeals here sought.

Wherefore your petitioner prays that an appeal be allowed by the Supreme Court of Pennsylvania from said judgment of the Superior Court and that a rule to show cause be issued upon this petition and be duly served

against the appellee and petitioner will ever pray for such other and further relief to which petitioner may be found entitled.

Harry M. McCaughey, 1011 Chestnut Street, Philadelphia, Pennsylvania, Attorney for Petitioner.

Hayden C. Covington, 117 Adams Street, Brooklyn, New York, of Counsel.

COMMONWEALTH OF PENNSYLVANIA,

County of —, ss:

—, being duly sworn according to law, deposes and says, that the facts set forth in the foregoing petition are true.

—, Notary Public.

(Exhibit A, being the Assignments of error in the Superior Court, and Exhibit B, being the opinion of the Superior Court,\* are not certified here because they are certified in another part of the Record.)

\* attached to this petition for appeal.

[fol. 134] ORDERS OF SUPREME COURT OF PENNSYLVANIA REFUSING ALLOCATURS

No. 1222 A Miscellaneous Docket

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT MURDOCK, JR., Appellant

9/28/42. Allocatur refused. By the Court.

No. 1223 A Miscellaneous Docket

COMMONWEALTH OF PENNSYLVANIA

v.

ANNA PERISICH, Appellant

9/28/42. Allocatur refused. By the Court.

No. 1224 A Miscellaneous Docket

COMMONWEALTH OF PENNSYLVANIA

v.

W. L. MOUDER, Appellant

9/28/42. Allocatur refused. By the Court.

No. 1225 A Miscellaneous Docket

COMMONWEALTH OF PENNSYLVANIA

v.

CHARLES S. SEDERS, Appellant

9/28/42. Allocatur refused. By the Court.

No. 1226 A Miscellaneous Docket

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT LAMBORNE, Appellant

9/28/42. Allocatur refused. By the Court.

No. 1227 A Miscellaneous Docket

COMMONWEALTH OF PENNSYLVANIA

v.

ANTHONY MALTEZAS, Appellant

9/28/42. Allocatur refused. By the Court.

No. 1228 A Miscellaneous Docket

COMMONWEALTH OF PENNSYLVANIA

v.

ANASTASIA TZANES, Appellant

9/28/42. Allocatur refused. By the Court.

No. 1229 A Miscellaneous Docket

COMMONWEALTH OF PENNSYLVANIA

v.

ELLAINE TZANES, Appellant

9/28/42. Allocatur refused. By the Court.

[fol. 135] IN THE PENNSYLVANIA SUPERIOR COURT

No. 346

No. 1 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT MURDOCK, JR., Appellant

No. 2 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANNA PERISICH, Appellant

No. 3 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

WILLARD L. MOWDER, Appellant

No. 4 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

CHARLES SEDERS, Appellant

No. 5 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT LAMBORN, Appellant

No. 6 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANTHONY MALTEZOS, Appellant

No. 7 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANASTASIA TZANES, Appellant

No. 8 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ELAINE TZANES, Appellant

DESIGNATION OF RECORD ON PETITION FOR WRIT OF CERTIORARI  
IN THE SUPREME COURT OF THE UNITED STATESTo Pier Dannals; Prothonotary of Pennsylvania Superior  
Court.

SIR:

You will please prepare immediately the following documents heretofore filed and incorporate them in one book or binder for the purpose of constituting the record in each of the above entitled and numbered causes, said record to consist of the following documents:

1. Printed record or paper book filed by said appellants in the above entitled and numbered causes in the Superior {fol. 136} Court, which paper book comprises the entire record and testimony of the trial court.

2. One copy of uniform assignments of error filed in each of said eight cases, using the copy filed in the case of Commonwealth v. Murdock, No. 1, followed by a statement that like assignments were filed in the other seven cases.

3. One copy of the opinion of the Superior Court written by President Judge Keller, dated July 23, 1942, and filed in the above entitled and numbered causes.

4. One copy of each of the eight judgments rendered; that is, a copy of the Superior Court judgment in each of the above entitled and numbered causes.

5. One copy only of the petition for appeal to Pennsylvania Supreme Court from the judgment of the Superior Court, using the petition for appeal in the case of Commonwealth v. Murdock (No. 1) and omitting Appendix A and

Appendix B of said petition for appeal because said documents appear elsewhere in the record.

6. Copy of each order or decree entered by Pennsylvania Supreme Court on September 28, 1942 refusing allocatur in each of the above entitled and numbered causes.

7. A copy of this designation of the record also to be incorporated in the record.

8. A certificate by you as prothonotary that the above entitled documents constitute the entire designated record for use on petition for writ of certiorari in each of the above titled and numbered cases.

The above documents shall comprise the entire record for use in support of the petition for writ of certiorari, and you are requested to prepare the record in one binder and deliver as requested and as required by law as soon as [fol. 137] possible.

Dated at the City of New York, October 8, 1942.

Hayden C. Covington, Attorney for Appellants,  
Office and P. O. Address: 117 Adams St., Brooklyn, N. Y., Telephone Triangle 5-1474.

#### CERTIFICATE OF SERVICE

I, Hayden C. Covington, attorney for appellants in the above entitled and numbered causes, hereby certify that I have served a copy of the within "Designation of the Record" upon counsel for the City of Jeannette and the Commonwealth by depositing such copy, securely enclosed in a sealed envelope and with postage fully prepaid and addressed to Fred B. Trescher, Irwin Gas Coal Building, Greensburg, Pennsylvania, in a United States Post Office at the City of New York in the State of New York on this 8th day of October, 1942.

Hayden C. Covington.

STATE OF NEW YORK,

County of Kings, ss:

Before me, the subscriber, a notary public in and for said county and state, appeared personally Hayden C. Covington and acknowledged that he signed the foregoing certificate of service.

William K. Jackson, Notary Public.



[fol. 138] IN THE PENNSYLVANIA SUPERIOR COURT

No. 346

No. 1 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT MURDOCK, JR., Appellant

No. 2 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANNA PERISICH, Appellant

No. 3 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

WILLARD L. MOWDER, Appellant

No. 4 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

CHARLES SEDERS, Appellant

No. 5 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT LAMBORN, Appellant

No. 6 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANTHONY MALTEZOS, Appellant

No. 7 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANASTASIA TZANES, Appellant

No. 8 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ELAINE TZANES, Appellant

DESIGNATION OF RECORD ON PETITION FOR WRIT OF CERTIORARI  
IN THE SUPREME COURT OF THE UNITED STATES

To Pier Dannals, Prothonotary of Pennsylvania Superior  
Court

SIR:

You will please prepare immediately the following documents heretofore filed and incorporate them in one book or binder for the purpose of constituting the record in each of the above entitled and numbered causes, said record to consist of the following documents:

1. Printed record or paper book filed by said appellants in the above entitled and numbered causes in the Superior [fol. 139] Court, which paper book comprises the entire record and testimony of the trial court.

2. One copy of uniform assignments of error filed in each of said eight cases, using the copy filed in the case of Commonwealth v. Murdock, No. 1, followed by a statement that like assignments were filed in the other seven cases.

3. One copy of the opinion of the Superior Court written by President Judge Keller, dated July 23, 1942, and filed in the above entitled and numbered causes.

4. One copy of *each* of the eight judgments rendered; that is, a copy of the Superior Court judgment in each of the above entitled and numbered causes.

5. One copy only of the petition for appeal to Pennsylvania Supreme Court from the judgment of the Superior Court, using the petition for appeal in the case of Common-

wealth v. Murdock (No. 1) and omitting Appendix A and Appendix B of said petition for appeal because said documents appear elsewhere in the record.

6. Copy of each order or decree entered by Pennsylvania Supreme Court on September 28, 1942 refusing allocatur in each of the above entitled and numbered causes.

7. A copy of this designation of the record also to be incorporated in the record.

8. A certificate by you as prothonotary that the above entitled documents constitute the entire designated record for use on petition for writ of certiorari in each of the above titled and numbered cases.

The above documents shall comprise the entire record for use in support of the petition for writ of certiorari, and you are requested to prepare the record in one binder and deliver as requested and as required by law as soon as [fol. 140] possible.

Dated at the City of New York, October 8, 1942.

Hayden C. Covington, Attorney for Appellants, Office and P. O. Address: 117 Adams St., Brooklyn, N. Y. Telephone Triangle 5-1474.

#### Certificate of Service

I, Hayden C. Covington, attorney for appellants in the above entitled and numbered causes, hereby certify that I have served a copy of the within "Designation of the Record" upon counsel for the City of Jeannette and the Commonwealth by depositing such copy, securely enclosed in a sealed envelope and with postage fully prepaid and addressed to Fred B. Trescher, Irwin Gas Coal Building, Greensburg, Pennsylvania, in a United States Post Office at the City of New York in the State of New York on this 8th day of October, 1942.

Hayden C. Covington.

STATE OF NEW YORK,  
County of Kings, ss.:

Before me, the subscriber, a notary public in and for said county and state, appeared personally Hayden C. Covington and acknowledged that he signed the foregoing certificate of service.

William K. Jackson, Notary Public.

[fol. 141] IN THE PENNSYLVANIA SUPERIOR COURT, No. 346

No. 1 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT MURDOCK, JR., Appellant

No. 2 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANNA PERISICH, Appellant

No. 3 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

WILLARD L. MOWDEE, Appellant

No. 4 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

CHARLES SEDERS, Appellant

No. 5 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ROBERT LAMBORN, Appellant

No. 6 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANTHONY MALTEZOS, Appellant

No. 7 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ANASTASIA TZANES, Appellant

No. 8 April Term, 1943

COMMONWEALTH OF PENNSYLVANIA

v.

ELLAINÉ TZANES, Appellant

DESIGNATION OF RECORD ON PETITION FOR WRIT OF CERTIORARI  
IN THE SUPREME COURT OF THE UNITED STATES

To Pier Dannals, Prothonotary of Pennsylvania Superior Court.

SIR:

You will please prepare immediately the following documents heretofore filed and incorporate them in one book or binder for the purpose of constituting the record in each of the above entitled and numbered causes, said record to consist of the following documents:

1. Printed record or paper book filed by said appellants in the above entitled and numbered causes in the Superior [fol. 142] Court, which paper book comprises the entire record and testimony of the trial court.

2. One copy of uniform assignments of error filed in each of said eight cases, using the copy filed in the case of Commonwealth v. Murdock, No. 1, followed by a statement that like assignments were filed in the other seven cases.

3. One copy of the opinion of the Superior Court written by President Judge Keller, dated July 23, 1942, and filed in the above entitled and numbered causes.

4. One copy of each of the eight judgments rendered; that is, a copy of the Superior Court judgment in each of the above entitled and numbered causes.

5. One copy only of the petition for appeal to Pennsylvania Supreme Court from the judgment of the Superior Court, using the petition for appeal in the case of Commonwealth v. Murdock (No. 1) and omitting Appendix A and Appendix B of said petition for appeal because said documents appear elsewhere in the record.

6. Copy of each order or decree entered by Pennsylvania Supreme Court on September 28, 1942 refusing allocatur in each of the above entitled and numbered causes.

7. A copy of this designation of the record also to be incorporated in the record.

8. A certificate by you as prothonotary that the above entitled documents constitute the entire designated record for use on petition for writ of certiorari in each of the above titled and numbered cases.

The above documents shall comprise the entire record for use in support of the petition for writ of certiorari, and you are requested to prepare the record in one binder and deliver as requested and as required by law as soon as [fol. 143] possible.

Dated at the City of New York, October 8, 1942.

Hayden C. Covington, Attorney for Appellants, Office  
and P. O. Address: 117 Adams St., Brooklyn, N. Y.  
Telephone Triangle 5-1474.

#### CERTIFICATE OF SERVICE

I, Hayden C. Covington, attorney for appellants in the above entitled and numbered causes, hereby certify that I have served a copy of the within "Designation of the Record" upon counsel for the City of Jeannette and the Commonwealth by depositing such copy, securely enclosed in a sealed envelope and with postage fully prepaid and addressed to Fred B. Trescher, Irwin Gas Coal Building, Greensburg, Pennsylvania, in a United States Post Office at the City of New York in the State of New York on this 8th day of October, 1942.

Hayden C. Covington.

STATE OF NEW YORK,

County of Kings, ss:

Before me, the subscriber, a notary public in and for said county and state, appeared personally Hayden C. Covington and acknowledged that he signed the foregoing certificate of service.

William K. Jackson, Notary Public Kings County  
Kings Co. Clks. No. 73, Reg. No. 3005. Commis-  
sion expires March 30, 1943. (Seal.)



[fol. 144]

## CERTIFICATE OF RECORD

COMMONWEALTH OF PENNSYLVANIA,  
County of Allegheny, ss:

I, Pier Dannals, Prothonotary of The Supreme Court of Pennsylvania, for the Western District thereof, Do Hereby Certify that the foregoing Record is a true and faithful copy of the whole of the Record and Proceedings of the The Supreme Court of Pennsylvania, in the Western District aforesaid, in certain suits therein pending, wherein Robert Murdock, Jr., et al. are appellants and Commonwealth of Pennsylvania is appellee.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of the said The Supreme Court of Pennsylvania, in and for the Western District, at Pittsburgh, this — day of October, in the year of our Lord one thousand nine hundred and forty-two.

Pier Dannals, Prothonotary. (Seal.)

[fol. 145]

## CERTIFICATE OF RECORD

COMMONWEALTH OF PENNSYLVANIA,  
County of Allegheny, ss:

I, Pier Dannals, Prothonotary. The Superior Court of Pennsylvania, sitting at Pittsburgh, Do Hereby Certify that the foregoing Record is a true and faithful copy of the whole of the Record and Proceedings of The Superior Court of Pennsylvania, Sitting at Pittsburgh aforesaid, in certain suits therein pending, wherein Robert Murdock, Jr. et al., are appellants and Commonwealth of Pennsylvania is appellee.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of the said The Superior Court of Pennsylvania, at Pittsburgh, this day of October, in the year of our Lord one thousand nine hundred and forty-two.

Pier Dannals, Prothonotary. (Seal.)

[fol. 146] SUPREME COURT OF THE UNITED STATES, OCTOBER  
TERM, 1942

No. 480

ORDER ALLOWING CERTIORARI—Filed February 15, 1943

The petition herein for a writ of certiorari to the Superior Court of the Commonwealth of Pennsylvania is granted, and the case is assigned for argument immediately following Nos. 280, 314, and 966, October Term, 1941.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Clerk's note: Similar orders were entered in Nos. 481-87.

(4778)